S
328.3
L13rrott
1978
C-1

PLEASE RETURN

INTERIM STUDY
BY THE
REVENUE OVERSIGHT COMMITTEE

TIMBER TAXATION IN MONTANA

November 1978
Published by
MONTANA LEGISLATIVE COUNCIL
State Capitol
Helena, Montana 59601

MONTANA STATE LIBRARY
S S328.3 L13rott 1978 c.1
Timber taxation in Montana :a report to
3 0864 00025212 5

TIMBER TAXATION IN MONTANA

A REPORT TO THE

FORTY-SIXTH LEGISLATURE

REVENUE OVERSIGHT COMMITTEE

November 1978

Membership
Revenue Oversight Committee

Rep. Herb Huennekens, Chairman	Sen. William Mathers, Vice-Chairman
Rep. W. Jay Fabrega	Sen. Larry Fasbender
Rep. Harrison Fagg	Sen. Pat Goodover
Rep. Robert Sivertsen	Sen. Thomas Towe
Rep. John Vincent	Sen. Jean Turnage
Rep. J. Melvin Williams	Sen. Robert Watt

Staff Researcher: Teresa Olcott Cohea

This study was completed pursuant to Chapter 458, Laws of 1977, and funded by money appropriated in HB 842, Laws of 1977.

TABLE OF CONTENTS

		Page
I.	COMMITTEE RECOMMENDATION	iv
II.	SUMMARY	1
III.	HISTORY OF TIMBER TAXATION IN MONTANA	4
IV.	CURRENT METHOD OF ASSESSING AND TAXING TIMBER	7
V.	STRENGTHS AND WEAKNESSES OF THIS METHOD	19
VI.	DIGEST OF OTHER STATES' TIMBER TAXATION LAWS	22
VII.	COST OF UPDATING CURRENT TIMBERLAND CLASSIFICATION SYSTEM	27
VIII.	ANALYSIS OF HB 83 (1977 SESSION)	31
IX.	ANALYSIS OF PROPOSED TIMBER TAX BILL	38
X.	DISTRIBUTION OF TIMBER TAX REVENUE TO LOCAL GOVERNMENTS IN OTHER STATES	39
XI.	FEDERAL PAYMENTS TO LOCAL GOVERNMENTS FOR FEDERAL TIMBERLAND	48
XII.	METHODS OF VALUING TIMBER	50
XIII.	REVISION OF PROPOSED TIMBER TAX BILL	57

RECOMMENDATION

The Revenue Oversight Committee recommends no change in Montana's method of taxing timber.

SUMMARY

The Revenue Oversight Committee conducted a thorough study of Montana's property tax on timber and timberlands. Members wanted to investigate three recurrent criticisms of the tax: 1) that it discourages forest conservation practices; 2) that the valuation schedules on which it is based are out-of-date and inaccurate; and 3) the federal timber harvested in the state is not taxed while private timberlands are. The research reports the Committee considered on these points are attached.

In its study, the Committee was not able to document that the property tax on timber caused premature cutting or discouraged reforestration. The Committee received no testimony on this point and found no study detailing instances in which the tax had this effect. Members questioned whether annual taxes on timberland ranging from 13¢ to 80¢ per acre would be sufficient to influence forest management practices.

The Committee reviewed the current method of valuing timber and timberlands, noting that it is based on detailed schedules reflecting tree species, size of timber, number of board feet/acre, accessibility to roads, topography, and market distance. The Committee learned that one element of the schedules -- the statewide classification plan -- has not been revised since 1961. Tree sizes and stock classes on many acres have, no doubt, changed since they were surveyed 15 years ago. However, the Committee found no evidence that this out-of-date schedule was causing over- or under-assessment of any particular groups of timber. Moreover, the Committee learned that the cost of updating the schedules would be almost $2,000,000, twice the total property tax collected on Montana's timberland each year.

The Committee explored alternatives to the current timber tax, reviewing the laws of other states and bills introduced in prior sessions. In particular, the Committee considered various drafts of a bill repealing the current property tax on timber and establishing a yield tax on the value of timber harvested. Members expressed concern, however, over loss of tax base in forested counties, which would lower their bonding capacity and local officials' salaries. Various devices for distributing a centrally collected yield tax to local governments were discussed but all presented administrative problems. In addition, the Committee had difficulty in defining a basis for valuing cut timber since methods of selling timber vary widely.

Committee members also learned that local governments do receive revenue from the federal government to replace property taxes lost on federally owned timberland. In 1977, 34 Montana

counties received $9,428,378 in forest receipts and $2,617,394 in payment-in-lieu of taxes for federal forestland.

After considering these points, the Committee voted to recommend no change in Montana's method of taxing timber.

NATE MEMBERS
ERROLL GRAHAM
CHAIRMAN
ANK HAZELBAKER
VICE CHAIRMAN
CT BLAYLOCK
M. GOODOVER
E WEBER
EXECUTIVE DIRECTOR
ANOR ECK
ADMINISTRATIVE ASSISTANT
BERTA MOODY
DIRECTOR, LEGISLATIVE SERVICES

Montana Legislative Council

State Capitol
Helena, 59601

(406) 449-3064

HOUSE MEMBERS
JOHN B. DRISCOLL
OSCAR KVAALEN
J. D. LYNCH
ROBERT L. MARKS
DIANA DOWLING
DIRECTOR, LEGAL SERVICES: CODE COMMISSIONER
ROBERT PERSON
DIRECTOR, RESEARCH

SEPTEMBER 15, 1977

TO: REVENUE OVERSIGHT COMMITTEE

FROM: TERESA OLCOTT COHEA

RE: TIMBER TAX STUDY

As the committee requested at the July 16 meeting, I have prepared a brief review of timber taxation. The attached memorandum contains:

I. History of timber taxation in Montana.

II. Description of the current method of timber assessment and taxation in the state.

III. Discussion of the strengths and weaknesses of the current method.

IV. Digest of other states' timber taxation laws.

I. History of timber taxation in Montana.

Over 23 million acres, or one-fourth of Montana's land area, are forested. About 16 million of these acres are classed by the U.S. Forest Service as commercial timber producing land. The majority of timberland is owned by the state or federal government. In 1976, only 3,059,279, or 13.3% of the timberland, appeared on the tax rolls as privately owned.[1] Table I shows the acres of private timberland in each county.*

As that table also illustrates, timberland comprises a small part of the state's tax base. In 1976, the taxable value of timberland was less then ½ of 1% of the state's total taxable value (0.461%), compared to the 8.2% made up of automobiles and pickup trucks and the 17.1% comprised of buildings or city lots. In 1976, less than $1,000,000 of property tax was paid on timberland.[2]

Because timberland was relatively unimportant to the state as a whole, the State Board of Equalization did not, for many years, establish a standard method of assessment. Counties with timber worked out their own methods, sometimes in concert, sometimes separately. The 1956 Legislative Committee on Taxation criticized this practice, and the 1957 classification law (Chapter 191) required the Board to provide for "a general and uniform method of appraising timberlands," (84-429.12). To illustrate the diverse appraisals of this period, timber assessments varied from $2.90/acre in Granite County to $17.64/acre in Lake County. Under the present uniform assessment, timberland is assessed at an average $6.01/acre in Granite County and $8.91/acre in Lake County.[3]

To implement this law, the Board requested the State Forester to establish a classification system for all timberland in the state. This system was completed in 1960-1 and implemented in 1963. The Board then determined the value of timber in each class of land. While the original classification fieldwork has not been updated since 1961, the Department of Revenue revised its valuation schedules in 1967 and 1972. These two elements are the basis of the current assessment rules, which were placed in the Montana Administrative Code in 1972, effective for 1973 and subsequent years.[4]

*This figure understates private ownership slightly. Marginal timberland owned by private individuals is assessed as grazing land. Ten counties (marked with an asterisk on Table 1) have not assessed timberland separately, recording it instead as agricultural land. The Department of Revenue estimates that by 1978, when all counties have assessed timberland, 3,125,000 acres will appear on the rolls.

TABLE I
ASSESSMENT OF TIMBERLAND
1976

	Acres	Average Value	Assessed Value
Beaverhead	24,501	3.40	83,311
*Big Horn	-0-	-0-	-0-
Blaine	-0-	-0-	-0-
Broadwater	16,601	2.59	42,940
*Carbon	-0-	-0-	-0-
*Carter	-0-	-0-	-0-
*Cascade	-0-	-0-	-0-
Chouteau	753	3.00	2,259
Custer	-0-	-0-	-0-
Daniels	-0-	-0-	-0-
Dawson	-0-	-0-	-0-
Deer Lodge	37,148	2.15	79,904
Fallon	-0-	-0-	-0-
Fergus	106,557	2.41	257,005
Flathead	472,061	8.27	3,906,224
Gallatin	100,816	2.59	260,750
Garfield	-0-	-0-	-0-
Glacier	-0-	-0-	-0-
Golden Valley	12,917	2.23	28,763
Granite	110,808	6.01	665,799
Hill	-0-	-0-	-0-
Jefferson	43,710	2.24	97,706
*Judith Basin	-0-	-0-	-0-
*Lake	106,004	8.91	944,080
Lewis and Clark	128,630	4.60	591,430
Liberty	-0-	-0-	-0-
Lincoln	428,328	10.8	4,623,993
Madison	59,141	2.71	160,482
McCone	-0-	-0-	-0-
Meagher	92,020	2.22	203,929
Mineral	90,921	8.09	735,595
Missoula	372,718	8.12	3,028,269
Musselshell	114,941	2.73	314,202
Park	88,306	3.47	306,386
Petroleum	-0-	-0-	-0-
Phillips	-0-	-0-	-0-
Pondera	-0-	-0-	-0-
*Powder River	-0-	-0-	-0-
Powell	235,837	6.98	1,645,643
Prairie	-0-	-0-	-0-
Ravalli	106,166	10.13	1,075,270
Richland	-0-	-0-	-0-
*Rosebud	-0-	-0-	-0-
Sanders	283,061	8.56	2,423,239

Table I (continued)

	Acres	Average Value	Assessed Value
Sheridan	-0-	-0-	-0-
*Silver Bow	232	2.11	490
Stillwater	6,684	2.51	16,792
Sweet Grass	17,887	2.57	45,886
Teton	-0-	-0-	-0-
Toole	-0-	-0-	-0-
Treasure	-0-	-0-	-0-
Valley	-0-	-0-	-0-
*Wheatland	-0-	-0-	-0-
Wibaux	-0-	-0-	-0-
*Yellowstone	-0-	-0-	-0-
STATEWIDE	3,059,279	7.04	21,546,646

Percent of total state taxable value timber = 0.461%
Compared to:

Agricultural land	=	8.149%
Automobiles and trucks	=	8.207%
Improvements on city lots	=	17.124%

Compiled from: Report of the State Department of Revenue, (1974-76), pp. 9-65.

Under the new classification system, nearly 1.5 million acres of grazing land were reclassified as timberland. Because timberland is assessed under the new system at a higher value than grazing land, the taxes on these acres of land increased. When the valuation schedules were revised, the taxes rose again, particularly in 1972 when the average assessed value of timberland rose from $5.81/acre to $7.81/acre.[5]

In recognition of citizen concern over these rising taxes and because of other problems with the current method of taxation, bills were introduced in the 1974, 1975, and 1977 Legislatures to enact a yield tax in Montana.

II. Assessment and taxation of timberland in Montana.

The assessed value of timberland appears in the Administrative Code in valuation schedules for each county or region. These valuation schedules reflect the following factors:

For the taxation of timber

1) tree species
2) size of timber
3) number of board feet per acre

For the taxation of timberland

4) accessibility to roads
5) topography
6) market distance

The valuation schedule for Granite County is reproduced on the following page. Because the method of assessment and the difficulty and expense of reassessment have been cited as the central problem of the current method of taxation, I describe in detail how these valuation schedules were established. Committee members may wish to scan this section to estimate the complexity of the assessment procedure.

The current method of assessment depends on two factors: the statewide classification plan and a 1972 schedule of valuation factors.[6]

A. Statewide Classification Plan

In response to the 1957 classification law, the State Board of Equalization directed the State Forester's Office to prepare a statewide classification system for Montana's timberland This system delineated the method of valuing timberland and established standard classes of timberland throughout the state.

TABLE II

PROPERTY TAX 42-2 22(1)-S2230

TIMBER AND TIMBERLAND VALUATION SCHEDULE
GRANITE COUNTY

Schedule 2

P	Access and Topography Class Favorable	Average	Difficult	L	Access and Topography Class Favorable	Average	Difficult
9W	$28.81	$20.91	$12.08	9W	$54.21	$33.98	$10.34
9M	22.24	15.65	8.61	9M	36.33	21.65	4.60
9P	17.04	11.20	5.64	9P	18.40	9.65	1.22
8W	10.98	6.78	3.20	8W	9.03	3.98	1.38
8M	9.01	5.49	2.50	8M	5.28	2.10	1.28
8P	3.76	2.46	1.28	8P	4.40	2.13	1.28
D				**DL**			
9W	20.10	10.50	1.30	9W	46.33	28.25	7.25
9M	12.85	6.22	1.22	9M	29.52	17.24	3.12
9P	9.85	4.49	1.33	9P	13.63	6.81	1.58
8W	7.33	3.03	1.34	8W	7.11	3.09	1.38
8M	5.38	2.26	1.26	8M	4.93	2.44	1.31
8P	4.48	1.98	1.27	8P	4.58	2.28	1.29
S				**LP**			
9W	29.55	16.76	2.22	9W	12.37	5.65	1.63
9M	21.97	11.89	1.26	9M	10.72	4.67	1.26
9P	11.37	5.17	1.23	9P	6.90	2.61	1.27
8W	6.82	2.84	1.36	8W	6.71	2.65	1.30
8M	5.11	2.51	1.29	8M	5.41	2.38	1.31
8P	4.02	2.38	1.28	8P	3.96	2.31	1.31

TF	Access and Topography Class Favorable	Average	Difficult	WLP	Access and Topography Class Favorable	Average	Difficult
9W	$16.59	$8.24	$1.76		$	$	$
9M	12.42	5.94	1.70	9M	9.45	3.80	1.24
9P	9.34	3.58	1.31	9P	4.85	1.92	1.23
8W	4.83	2.41	1.28	8W	5.23	2.15	1.25
8M	3.70	2.24	1.26	8M	3.57	1.95	1.23
8P	3.15	2.10	1.25	8P	3.40	1.94	1.23

The above values are per acre assessed values They include land values of $1.65 on Favorable, $1.00 on Average and $.40 on Difficult timberlands They also include a G6 grazing grade For grazing graded higher than G6, add the following

For G5 add $0.65 per acre
For G4 add 1.70 per acre
For G3 add 2.90 per acre
For G2B add 4.60 per acre

A value for Christmas trees that are being harvested may also be added at the discretion of the county commissioners

The classification system is based on (1) species; (2) stand-size class; (3) stocking class; and (4) access and topography class.

(1) Species

The classification system recognizes the following species of commercial trees. The abbreviations used in the system are also used in the Administrative Code assessment rules:

Western White Pine	WP
Ponderosa	P
Western Larch	L
Douglas Fir	D
Englemann Spruce, White Spruce	S
Lodgepole Pine	LP
Western Hemlock	WH
True Firs	TF
Western Red Cedar	C
Cottonwood	CO
Willow, Aspen, Birch, and other hardwoods	OH
Whitebark Pine, Limber Pine	WLP

(2) Stand Size

Stand size refers to the predominant size of tree within a stand of trees. The classification system set four size classes and uses a numeral to designate each:

Sawtimber 9

Sawtimber trees are 11" or larger in diameter at breast height (DBH). For a stand to qualify as sawtimber, the trees must be capable of yielding at least 1,500 board feet of lumber per acre.

Poletimber 8

Stands are classified as poletimber if they fail to qualify as sawtimber but at least 10% of the trees are 5" DBH or larger.

Seedling-Sapling 7

Stands are classified as seedling-sapling if they do not qualify as either sawtimber or poletimber but at least 10% of their trees are of a commercial species and half of those trees are less than 5" DBH. Stands which are 10% or more stocked with sawtimber and poletimber trees but yield less than 1,500 board feet/acre are classed as either seedling-sapling or nonstocked.

Nonstocked or Deforested 6

Areas are classified as nonstocked if less than 10% is stocked or if the yield of sawtimber trees is less than 1,500 board feet/acre. Nonstocked and deforested areas will be classified by the latest forest type which last occupied the area.

(3) Stocking Class

Stocking is the extent to which the available growing space is effectively used by present or potential growing trees of commercial species. The State Forester measured stocking classes by determining the number of trees per 1/500 of an acre. The following tables show these classes and the symbols used in the assessment rules for each.

	Stocking Class		
	Well(W)	Medium(M)	Poor(P)
Seedling-Saplings size well-established through .99" DBH	5	3	1
1.0" DBH - 2.99" DBH	3	2	1
3.0" DBH - 4.99" DBH	2	1	-

Aerial photographs are usually used to determine stocking of older trees. In this case, the crown closure, or the percentage of area covered by trees, is used to determine the stocking class:

		Symbol
Nonstocked	- 0-9% crown closure	-
Poorly stocked	- 10-39% crown closure	P
Medium stocked	- 40-69% crown closure	M
Well stocked	- 70+%	W

(4) Access and topography class (A&T classes)

The following chart shows how the five A&T classes - favorable, average, difficult, impractical, and unproductive - are determined. In this chart, "manufacturing point" is defined as "a location with planer facilities to produce finished lumber which has been or seems likely to be in continual seasonal operation for 5 years and has an annual output of at least 1,000,000 board feet."

ACCESS AND TOPOGRAPHY CLASSIFICATION TABLE

Access and Topography	Road Development Characteristic to Tract	Topography on Tract	Distance from Manufacturing Point**	Total Grade in Class*
FAVORABLE	**Grade R-1** Tract within 1 mile of usable road. Easy Road construction No rock outcrops or swamp barriers.	**Grade T-1** Flat to gentle Slopes generally under 40%. No rock outcrops or swamps. Good tractor logging grd.	**Grade D-1** Less than 25 miles	3 and 4

ACCESS AND TOPOGRAPHY CLASSIFICATION TABLE (Continued)

Access and Topography	Road Development Characteristic to Tract	Topography on Tract	Distance from Manufacturing Point**	Total Grade in Class*
AVERAGE	**Grade R-2** Tract 1 to 3 miles from usable road. No difficult road problems. Average construction.	**Grade T-2** Variable slopes under 60%. Some rock outcrop or swampy ground. Average logging conditions.	**Grade D-2** 25 to 50 miles	5, 6 and 7
DIFFICULT	**Grade R-3** Tract 3 to 6 miles from usable road. Also includes tracts closer, but with difficult construction problems such as rock or water barriers and rough terrain.	**Grade T-3** Rough, broken ground. Steep slopes. Numerous rock outcrops and bluffs or other features which make logging difficult.	**Grade D-3** 50 to 90	8 and 9
IMPRACTICAL	**Grade R-4** Tract over 6 miles from usable road.	**Grade T-3** (Same as above)	**Grade D-4** 90-120	10 and over
UNPRODUCTIVE	Any one of the following factors will place the tract into this class: Extreme physical barriers preventing accessibility. Extreme low grade of land and timber. (See specifications for unproductive noncommercial forest land) If legal barriers, (Rights of way, etc.) or reservations for recreation, watershed or other use which will prevent logging for an indefinite period do exist, determination will be made by the County Assessors.			

These four factors are shown in the assessment valuation schedules as follows:

P-1	Favorable	Average	Difficult
2-9M	$35-84	$25.51	$13.83
9P-3	14.84	9.56	4.76
8P	3.86	2.51	1.28

4

1 - species. In this case, ponderosa pine.
2 - stand size. In this case, saw timber.
3 - stocking level. In this case, poor.
4 - access and topography class.

This classification system provided a method for classifying timberland statewide. In order to apply it at the county level, several further steps were necessary.

1) In each county,* stand volume tables were prepared from existing data. These tables showed what the percentage of each tree was likely to be in various types of stands. For example, in Granite county, the State Forester determined that in a poorly stocked acre stand of sawtimber ponderosa, an average 59.7% of the total board feet of trees larger than 9" DBH were likely to be Group I species (see p. 9), 38.8% Group II, and 1.5% Group III. Further, there would be an average .11 cubic feet/acre of smaller trees. These calculations were made for each species, each size of stand, and each stocking class in every county with timberland.

2) Second, the State Forester or private forester divided each county's timberland into 40 acre parcels and determined the access and topography class into which it fit.

*In Lake County, different stand volume tables were prepared for east and west of Highway 93 and Flathead Lake because of the differences between the stands of trees on the two slopes.

B. 1972 Schedule of Valuation

Once the field classification was completed and individual timberland classified, the Board of Equalization calculated the assessed value of the various classes of timberland. The Department of Revenue updated these assessments in 1972 and plans to do so again in 1978.

To oversimplify, the valuation schedules establish a value for timberland by taking lumber's selling price minus production expenses, multiplying this figure by 25% to allow for the present value of timber that may not be harvested for many years, multiplying this figure by the standard fractional assessment ratio of 40%, and adding to this figure the assessed value of the timberland for grazing purposes and the increase in assessed value of the land because it grows timber. As these steps are discussed in the following pages, committee members may wish to refer to the charts on pages 13 and 15 which show part of the process graphically.

To begin calculating the assessed value of timberland, the Department of Revenue prepared appraisal schedules showing the factors listed below. Because the quality of the timber and the conditions under which it is grown on either side of the continental divide vary so markedly, the Department of Revenue has prepared separate appraisal schedules for each. These two charts appear on pages 13 and 15.

1) Groups of Species

Commercial trees were divided into three groups:

Group I - Ponderosa Pine, Western White Pine
Group II - Western Larch, Douglas Fir, Englemann Spruce, White Spruce
Group III - Lodgepole Pine, Western Hemlock, True Firs, Western Red Cedar, Whitebark Pine, Limber Pine.

2) Lumber Selling Price

The department then averaged the lumber prices, including chips and miscellaneous wood byproducts, for each group of species over the five years, 1967-1971.

3) Profit and Risk Allowance

The valuation schedule allows 10.7% of the selling price to be deducted as a profit and risk allowance. This percentage is taken from the U.S. Forest Service, which uses this percentage in determining the price charged to private logging companies for timber growing on public lands.

4) Manufacturing Costs

The cost of manufacturing is also subtracted from the lumber selling price. The costs used in the schedule are 4-year averages (1968-1971) worked out for each group of species by the Forest Service, for its cost estimates to private loggers.

5) Overrun

After 3) and 4) have been subtracted from the lumber selling price (1), a percentage of this subtotal is added back onto the total. This percentage is the overrun caused through scaling: estimates made in the field of the total board feet a log will yield are generally short of the actual amount produced after planing. The Forest Service took a 5-year average (1967-1971) of the scaling overrun for each group of species, which the department used in its calculations. Once the overrun is added to the foregoing figures, the value at the mill is determined.

6) Logging Cost

From the value at the mill is subtracted the logging cost in various types of terrain and volume of timber.

7) Wholesale Value

After the cost of logging has been subtracted from the value at mill, the resulting figure is multiplied by 25%. This fraction is introduced to allow for the long growing term of forests: since not all trees are harvested annually, taxing on the selling price of a tree's lumber, minus expenses each year was not, in the Board of Equalization's estimation, reasonable. This factor is based on an average 30 years between the time trees reach the sawtimber size and are harvested. Several other states use the same factor.

Now, to apply this statewide valuation schedule to a specific county, the following steps were taken. The department used the stand volume table for each county to determine the volume and species of trees in each stand. Then appraised value of each type of tree in that type of terrain was calculated. To illustrate, return to the well-stocked stand of sawtimber ponderosa in Granite County mentioned on page 8. Assume that it is in a favorable accessibility and topography class. The DOR knew from Granite County's stand volume table

that 59.7% of the total 6,700 board feet per acre will be Group I species; 38.8% Group II; 1.5% Group III, and that the smaller trees will contain .11 cubic feet. Using the appraised value of each type of timber in favorable terrain, the department calculated the total value of the lumber in each acre.

Group I

6.7 total mbf x 59.7% = 4.0 mbf
4.0 mbf x $6.91 (value of stumpage/acre determined by appraisal formula) $27.64

Group II

6.7 mbf x 38.8% = 2.6 mbf
2.6 mbf x $3.13 = $ 8.14

Group III

6.7 mbf x 1.5% =.1 mbf
.1 mbf x $2.81 = $ .28

Cubic Feet

.11 Mcuft/acre x $3.37 (determined as shown in Table III) =$ .37
Total value of board feet + cubic feet/acre $36.43

Assessment factor x 40%

$14.57

To the appraised value of the timber growing on timberland, the DOR adds the land's assessment for grazing. Every acre has added to it a G-6 value of 82¢. If the grazing capacity of the land is greater than this minimum, the following valuation chart is used:

G-5 add $0.65/acre
G-4 add $1.70/acre
G-3 add $2.90/acre
G-2B add $4.60/acre

In addition, the department adds timberland value (recognition that land is capable of growing timber) at $1.65 for favorable (A&T), $1.00 on average, and $.40 on difficult.

So, to return to the example, to the value of the timber

is added the grazing land assessment and the timberland value.

	$14.57
Added grazing land value	0.82
Added timberland value	1.65
	$17.04

This ends the assessment process. $17.04 appears in the Administrative Code as the assessed value per acre of poor-stocked sawtimber ponderosa pine in favorable terrain in Granite County. The MAC contains 25 pages of charts, showing the assessed value of timberland in each county, for each commercial species, size of tree, stock class, and access and topography class.

Current Method of Taxing Timberland

Prior to the 1975 session, timberland was in Class 4 of the property tax classification system, taxed at 30% of its assessed value. The taxable value of that acre in Granite County used as an example in the last section would be $5.11 ($17.04 x 30%).

HB 70, passed in the last session, which substituted a new 19-class system for the previous 11 classes, did not state in which specific class timberland should be placed. The Department of Revenue is debating whether to place it in:

1) Class 11 ("all lands, except agricultural land"), in which it would be taxed at 12% of its market value. In this case, the assessment tables in the MAC would have to be reworked to eliminate the 40% assessment factor, or

2) Class 6 ("agricultural land as defined in 84-437.2"). In this case, timberland would be taxed at 30% of its assessed value and the assessment charts would not have to be reworked. However, timberland could then be subject to the rollback tax (84-437.4), which it has not been before.

1972 REVISED CALCULATION OF VALUATION FACTORS FOR PRIVATE FOREST LANDS

The following calculations are based upon evidence adduced at two public timber and timberland hearings held in Missoula on May 4, 1972, and in Helena on June 1, 1972.

TABLE IIIa
DETAILS OF WEST SIDE BOARD FOOT APPRAISAL

	GROUP I	GROUP II	GROUP III
LUMBER SELLING PRICE (Including chips & miscellaneous byproduct utilization)	114.44	93.71	84.62
PROFIT & RISK ALLOWANCE (10.7% of selling price)	- 12.25	-10.03	- 9.05
MANUFACTURING (Including chips, etc., at 12 logs/M)	- 45.24	-41.73	-35.07
SUBTOTAL VALUE	56.95	41.95	40.50
OVERRUN %	12%	16%	17%
VALUE (Log Scale) AT MILL	63.78	48.66	47.39
STUMPAGE AFTER LOGGING COSTS: (Logging Cost for 10 Mbf/Acre)			
Favorable at $34.57	29.21	14.09	12.82
Average at $41.91	21.87	6.75	5.48
Difficult at $50.55	13.23	---	---
WHOLESALE VALUE AT 25%			
Favorable	$ 7.30	$ 3.52	$ 3.21
Average	$ 5.47	$ 1.69	$ 1.37
Difficult	$ 3.31	---	---

TABLE IIIb

DETAILS OF WEST SIDE CUBIC FOOT APPRAISAL

	FAVORABLE	AVERAGE	DIFFICULT
Value at 10Mbf/Acre[5]			
Species Group I	6.97	5.23	3.16
Species Group II	3.36	1.61	
Species Group III	3.07	1.31	
WHOLESALE VALUE (Based upon percentage of species group volumes)			
Group I at 4.97T	.346406	.259931	.157052
Group II at 37.52%	1.260672	.604072	
Group III at 57.51%	1.765557	.753381	
SUM 100%	3.372638	1.617384	.157052
TOTAL WHOLESALE MCF VALUE/ACRE	$3.37	$1.62	$0.16

TABLE IVa

DETAILS OF EAST SIDE BOARD FOOT APPRAISAL

LUMBER SELLING PRICE (Including chips & miscellaneous byproduct utilization)	$75.95
PROFIT & RISK ALLOWANCE (10.7% of selling price)	- 8.13
MANUFACTURING COSTS (Including chips, etc., for all grades & species	- 26.17
SUBTOTAL VALUE	41.65
OVERRUN %	17%
VALUE (Log Scale) AT MILL	$48.73
STUMPAGE AFTER LOGGING COST: (Logging cost for 7 Mbf/Acre)	
Favorable at 40.42	8.31
Average at 47.93	.80
Wholesale Value at 25%	
Favorable	$ 2.08
Average	$ .20

TABLE IVb

DETAILS OF EAST SIDE CUBIC FOOT APPRAISAL

.9553868 of Bd. Ft. 25% Wholesale Value at 7 Mbf/Acre	FAVORABLE	AVERAGE
Species Group III	$ 1.99	$ .19

(Values are total wholesale Mbf value)

III. Discussion of the strengths and weaknesses of Montana's current method of taxation.

The following arguments have been culled from testimony on the yield tax in the 1974 and 1975 session and from previous studies of timber taxation:

Reasons for changing the current method of assessment and taxation.

1) Effect on forest management

In 1974, the Environmental Quality Council Montana Land Use Policy Study declared that Montana's timber tax system "is an incentive to harvest timber in order to reduce property taxes. Good forestry practices may be discouraged when owners realize that taxes may increase as the quality of timber improves."

Numerous witnesses before the 1974 and 1975 House and Senate Taxation committees stated that timber taxes sometimes prompted owners of small timber stands to cut nonproductive but aesthetic stands or consider sale to large timber companies who would have the funds to manage the timber better. One owner of 200 acres of a 75-year old timber stand in Mineral County calculated that she would pay $63.71 an acre in taxes before the timber would be ready to harvest. At then current prices (1975), she could harvest immediately and receive $47.50 an acre for the timber, or harvest in 30 years and receive $159.60 an acre. For her, $63.71 in taxes over the 30 years until the timber could be harvested made waiting until maturity an uneconomic investment.

No study I have been able to discover documents that timber is cut before maturity in Montana as a direct consequence of timber taxation. An 8-year study of timber taxation completed by Yale foresters in 1935 (considered by current scholars to be the "single most valuable forest tax study to date") concluded that, nationwide, property taxes contributed only slightly to the rate of logging, but that taxes were an important factor in deferring reforestation. Fred Fairchild, main author of this study, contended that the knowledge that taxes would be assessed on trees annually throughout their 30 -- 120 year growing term created as much a psychological burden as a financial one and deterred long-range investment in timber.[8]

2) Difficulty of administration

As shown in section II, the current method of assessing timberland is based on extensive field surveys for the classification of timberlands and office calculations of value for each species and stand size in each county.

The last field surveys for classification were completed in 1961. The Department of Revenue forester and the Department of Natural

Resources personnel who conducted the original survey agree that the classification system is out of date and should be revised if timber continues to be taxed under the current law. Generally, county assessors change assessments on timberland only when the timber is cut or burned. Tree sizes and stocking class have changed on many acres, no doubt, in the past 15 years.

Dennis Burr, administrator of the Property Assessment Division, estimates that reclassification of timberland in this state would cost 60¢/acre or $1,875,000. Updating the valuation schedules (which were revised in 1967 and 1972 and are scheduled to be redone in 1978) would cost about $12,000.[9]

Thus, the estimate for making timberland assessments current is $1,887,000. Since the DOR collects less than $1,000,000 a year in timberland property taxes, this cost is great, particularly as timberland assessments should, optimally, be revised frequently.

Reasons for continuing the present method.

The present system of timberland taxation provides a continuous and steady tax base for heavily timbered counties. These counties' tax bases would be seriously eroded if the ad valorem tax on timber were abolished. In Lincoln County, for example, 23.4% of the assessed value of the county is timberland value. Other counties in which timberland accounts for a large measure of assessed value are:

Sanders	13.6%
Missoula	3.8%
Flathead	6.0%
Granite	11.6%
Mineral	18.0%

Further, changing the method of assessment and taxation might work a hardship on owners of forests who have paid property taxes on growing stands for many years.

IV. Digest of other states' timber taxation laws.

Table VI shows how several other states tax timber and timberland. This information is current through 1976 and was taken from Timber Tax Journal and Commerce Clearing House Topical Law Reports.

In Table V, the terms of taxation are defined as follows:

yield tax - a levy on the value of timber harvested. This tax is usually imposed in lieu of a general property tax on timber.
severance tax - a levy on the value of timber harvested which is imposed in addition to a general property tax.
property tax - a levy on the assessed value of growing timber and timberland. The method of determining assessed value varies widely.

modified assessment - general property taxes are imposed on the basis of either 1) a special reduced assessment rate for timber or timberland or 2) a flat assessment rate (i.e., $2/acre for all timberland.

If the committee wishes additional information on the tax system of any other state or on a particular method of taxation, I would be glad to compile it.

TABLE V

OTHER STATES' FOREST TAXATION LAWS

STATE	EXEMPTION OR REBATE	MODIFIED ASSESS-MENT	MODIFIED RATE	YIELD TAX	SEVERANCE TAX
Alabama	X	X		X	X
Arkansas		X	X		X
California		X		X	
Colorado	X				
Connecticut		X		X	
Florida		X			
Hawaii	X	X		X	
Idaho	X			X	
Indiana		X			
Iowa	X	X			
Louisiana				X	
Maine		X			
Maryland		X			
Massachusetts				X	
Michigan				X	
Minnesota			X	X	
Mississippi					X
Missouri				X	
Nevada		X			
New Hampshire	X	X		X	
New Jersey	X	X			
New Mexico		X			X
New York				X	
North Carolina	X	X			
North Dakota			X		
Ohio		X	X		
Oregon		X		X	X
Pennsylvania		X			
Puerto Rico	X		X		
Rhode Island	X	X			
South Carolina		X			
Tennessee	X	X			
Virginia					X
Washington		X		X	
West Virginia					X
Wisconsin			X	X	

TABLE VI

STATE	PROPERTY TAX EXEMPTION	PROPERTY TAX	YIELD TAX	MODIFIED RATE TAX	SEVERANCE TAX	STATE REIMBURSEMENT TO LOCAL GOVERNMENT
California	timber exempt	timberland zoned as timberland for 10 years assessed on use				additional 0.5% of stumpage value levied until 1982 for allocation to local governments; revenues in excess of $800 go back to local gov. in proportion to logging
Colorado	increase in value from planting trees is exempt for 30 years	timberland taxed at ordinary rate				
Idaho	young growth planted for conservation purposes exempt	reforestation land is assessed at $1/acre; other timberland on productive capacity	12% of stumpage value			
Louisiana		timberland assessed at 10% of use value	2½% of current average stumpage value			
Maine		timberland assessed on the capitalized annual net wood production value		excise tax of 56¢/acre for softwood trees, 28¢/acre for mixed wood forests for spruce budworm control		
Massachusetts		land on which timber grows assessed at not more than $10/acre	8% of stumpage value			
Michigan			10% of stumpage value on commercial forest land; 5% of stumpage value on private land	15%/acre for commercial forest land $1/acre for private forest reserves		

STATE	PROPERTY TAX EXEMPTION	PROPERTY TAX	YIELD TAX	MODIFIED RATE TAX	SEVERANCE TAX	STATE REIMBURSEMENT TO LOCAL GOVERNMENT
Minnesota			optional yield tax requiring state supervision of timber management. Land taxed at 10¢/acre; yield tax 40% of stumpage value if cut first year after contract; decreasing 2% a year to 10%	a) commercial forests assessed at 30% of average annual growth; b) temporarily non-productive forest timber taxed at 5¢/acre per year if owner reforests; 15¢/acre if he doesn't; c) permanently unproductive forest land is taxed at 5¢/acre per year d) timberland not used for residential, commercial, agricultural, or recreational purposes may be assessed at 20% of market value.		
Nevada				timberland is assessed at 35% of use as timberland		
New Hampshire	rebate of property taxes on small lots planted with softwood trees		10% of stumpage value	$20-$35/acre assessment; 20% reduction for land open to public; 10% rollback tax		2% of stumpage value is levied until indebtedness under Forest Conservation Aid Fund to Heavily Timbered Towns retired. This fund reimburses towns which lost property tax revenues.

STATE	PROPERTY TAX EXEMPTION	PROPERTY TAX	YIELD TAX	MODIFIED RATE TAX	SEVERANCE TAX	STATE REIMBURSEMENT TO LOCAL GOVERNMENT
Oregon (Eastern) (East of Cascade Mountains)	timber exempt reforestation land exempt	assessed as forest land, not highest and better use	5% of "immediate harvest value"	5¢/acre forest fee on exempt reforestation land	9½¢ /1000 board feet for merchantable timber plus 4¢/1000 board feet for fire protection fund on certain lands	
Oregon (Western) (West of Cascade Mountains)	trees under 12" in diameter exempt reforestation land exempt	timberland assessed as forest land, not at highest and best use; timber assessed at 30% of "immediate lowest value"	30% of "immediate harvest value" plus additional tax of 30% of value 70% of previous years harvest 12 of stumpage value of crop harvested on reforestation land	10¢/acre forest fee on exempt reforestation land	" "	
Washington (Eastern) (East of Cascade Mountains)	timber exempt (after 3-year "phase-out")	fixed assessment $4/acre if doesn't reforest land	6½% of stumpage value 1- 12½% of stumpage value on reforestation land, depending on years since classification			See Note A below
Washington (Western) (West of Cascade Mountains)	timber exempt (after 3-year "phase-out")	fixed assessment $8/acre if classified reforestation land	6½% of stumpage value. 1 - 12½% of stumpage value on reforestation land, depending on years since classification			See Note A below
Wisconsin	timber and timberland exempt; if classified as "forest crop lands"		10% of stumpage value on "forest crop land"	20¢/acre tax on "forest crop land" 20¢/acre x ratio derived from the equalized value per acre of combined land classes		20¢/acre

NOTE A

For 10 years after the passage of the yield tax, yield tax supplemented as necessary by surtax proceeds - will be allocated among taxing districts as needed to offset property tax reserve loss. This revenue is distributed to local governments based on the amount of timber in that jurisdiction and the amount lost.

FOOTNOTES

[1]Environmental Quality Council, Montana's Renewable Resources (1976), p.61. Report of the State Department of Revenue (1976), p.65.

[2]Report of DOR (1976), pp. 9-64.

[3]State Board of Equalization, Biennial Report (1962).

[4]Information from Virgil Byford and Michael Lambert, Foresters, Property Assessment Division, Department of Revenue, and Robert Griffes, Department of Natural Resources, Missoula.

[5]Report of the State Department of Revenue (1972), p. 30. State Board of Equalization; Biennial Report (1972).

[6]The following description of Montana's method of assessing timberland is taken from Office of the State Forester, Operation Manual for Inventory of Private Forest Land (1958), letters from State Board of Equalization to Boards of County Commissioners and County Assessors (16 August 1972), information from Virgil Byford and Michael Lambert, who were kind enough to check this report for accuracy.

[7]Minutes of the House and Senate Taxation Committees (1974) and (1975). EQC, Third Annual Report (1972), p. 71.

[8]Fred R. Fairchild, Forest Taxation in the United States, USDA Misc. Publ. No. 219, Oct. 1935. Fred Fairchild, "Taxation of Timberlands", in Report of the National Conservation Commission, Vol. 2, Sen. Doc. 676, 60 Cong. 2, 1909. Harold Steen, The U. S. Forest Service: A History (Seattle University of Washington Press, 1976), p. 192.

[9]Letter from Dennis Burr, Administrator of the Property Tax Division, Department of Revenue, 15 August 1977.

SENATE MEMBERS
CARROLL GRAHAM
CHAIRMAN
FRANK HAZELBAKER
VICE CHAIRMAN
DICK BLAYLOCK
P. M. GOODOVER
RUE WEBER
EXECUTIVE DIRECTOR
ELEANOR ECK
ADMINISTRATIVE ASSISTANT
ROBERTA MOODY
DIRECTOR, LEGISLATIVE SERVICES

Montana Legislative Council

State Capitol
Helena, 59601

(406) 449-3064

HOUSE MEMBERS
JOHN B. DRISCOLL
OSCAR KVAALEN
J. D. LYNCH
ROBERT L. MARKS
DIANA DOWLING
DIRECTOR, LEGAL SERVICES; CODE COMMISSIONER
ROBERT PERSON
DIRECTOR, RESEARCH

September 12, 1977

TO: REVENUE OVERSIGHT COMMITTEE

FROM: TERESA OLCOTT COHEA Teresa

RE: TIMBER TAX STUDY

As noted in the research report on timber taxation, Dennis Burr, Administrator of the Property Assessment Division, estimated that updating the classification of timberland for property tax assessment purposes would cost $1,875,000.

Robert Griffes, Chief of the Operations Bureau, Division of Forestry, DNRC, has provided the attached summary sheet showing the costs of the original classification, which was done in the years 1958-1961.

Mr. Griffes noted that "even considering the impact of inflation, it would be IMPOSSIBLE to do the same thing for this amount" because of changes in both federal and state record-keeping.

TOC:jw

SUMMARY OF COSTS - BY COUNTIES, BY STEPS
RECLASSIFICATION PRIVATE FOREST LANDS
FINAL SUMMARY, JANUARY, 1963

Counties	Other	Planning & Supervision	Pre-Field	Field Checking	Transcribing	Area Calcu.	Vol. Table Prep.	Travel	Supplies	Maps & Photos	Total
Silver Bow	.53	136.05	25.65				6.46	16.46	15.85	3.06	204.06
Cascade	.53	549.85	6.79				14.28	67.29	45.63		684.37
Yellowstone		81.89	45.40				6.46	2.38	2.97	16.60	155.70
Missoula	251.44	3,772.21	5,721.89	8,075.57	3,229.19	70.25	102.69	2,007.75	365.81	4,798.68	28,395.48
Lewis & Clark	7.60	2,633.94	2,771.75	5,111.49	3,911.74	1,300.95	89.89	3,386.13	257.70	517.45	20,288.64
Gallatin		2,126.97	2,640.87	2,964.46	322.59		22.61	1,698.57	87.44	2,177.69	12,041.20
Flathead	6.30	67.54	18.15					1.34	.65		93.98
Fergus		993.60	310.20	2,938.46	871.87		6.46	1,686.54	79.21	118.24	7,004.58
Powder River		194.76	44.50				6.46	18.57	10.29	19.60	294.18
Carbon		156.84	62.55	223.63			6.46	173.83	2.34	13.00	638.65
Phillips		150.18	7.84				6.46	57.47	2.54	27.20	251.69
Hill		9.05	3.65				6.46	.23	1.02	15.40	35.81
Ravalli		692.19	1.58				48.45	63.42	39.86	5.22	850.72
Custer	6.51	207.01	231.90	166.83	39.71		6.46	209.16	8.34	18.86	894.78
Lake	38.67	1,407.03	2,023.01	2,259.88	1,537.63		76.24	1,312.95	121.77	881.51	9,658.69
Dawson	2.29	145.72	1.57	8.36			3.23	107.72	1.72	14.20	284.81
Roosevelt		48.99	4.71				3.23	30.27	1.02	13.00	101.22
Beaverhead	.53	232.05	266.01	717.68	42.32		48.45	410.03	8.72	30.17	1,755.96
Chouteau		314.16	163.07				14.28	50.48	14.32	24.52	580.83
Valley		44.71	104.56	54.91			3.23	85.55	2.68	27.20	322.84
Teele		39.86	51.72	3.14	18.81		6.46	49.58	1.24	10.60	181.41
Big Horn		336.74	484.47	210.87	23.65		6.46	212.71	27.53	27.60	1,330.03
Musselshell		440.57	529.51	706.96	19.80		6.46	641.96	23.56		2,368.82
Blaine		68.47	143.94	74.29			6.46	76.70	5.21	21.40	396.47
Madison	2.19	1,331.34	1,892.85	2,307.79	2,352.37	687.76	22.61	1,415.04	119.38	1,759.88	11,891.21
Pondera		9.05	1.57				6.46	.23	1.02	10.60	28.93
Richland	1.17	50.83	45.65	64.60			3.23	60.79	2.14	13.00	241.41
Powell		~~1,735.75~~ 1,721.69	2,602.50	5,441.75	1,813.02	793.15	22.61	~~2,734.57~~ 2754.03	~~151.99~~ 171.97	974.92	~~16,270.26~~ 16,506.64
Rosebud	1.05	180.58	686.89	284.34	24.24		6.46	216.60	8.57	27.20	1,435.93
Deer Lodge		805.57	458.71	1,793.79	656.99	258.46	12.92	1,105.93	55.94	329.08	5,477.39
Teton		134.33	6.80				6.46	32.24	2.76	16.50	199.09
Stillwater	1.68	233.47	18.29				6.46	21.75	32.87	10.60	325.12
Treasure		56.93	91.11	82.62			6.46	84.34	3.01	8.20	332.67
Sheridan		29.76	6.79					14.07	1.02	10.60	62.24
Sanders	150.48	2,300.56	2,344.41	3,231.90	2,466.72		132.43	2,137.91	239.39	875.82	13,879.62
Judith Basin		140.48	6.79		7.31		14.28	8.83	9.66	12.85	200.20
Daniels		8.05	3.66					.23	1.02	8.20	21.16
Glacier		38.94	33.29				6.46	1.19	1.90	11.80	93.58

SUMMARY OF COSTS - BY COUNTIES, BY STEPS
RECLASSIFICATION PRIVATE FOREST LAND
FINAL SUMMARY, JANUARY, 1963

Counties	Other	Planning & Supervision	Pre-Field	Field Checking	Transcribing	Area Calcu.	Vol. Table Prep.	Travel	Supplies	Maps & Photos	Total
Fallon		42.50	25.39				3.23	9.61	1.02	10.60	92.35
Sweet Grass		176.74	51.98				13.77	17.93	14.11	11.80	286.33
McCone		24.05	1.57	25.08			3.23	9.61	1.02	17.80	82.36
Carter		125.97	264.31	137.24			6.46	212.37	41.94	2.84	791.13
Broadwater		161.76	4.71		6.46		6.46	16.97	5.64	6.00	208.00
Wheatland		24.41	4.70				14.28	1.61	10.97	8.20	64.17
Prairie	2.28	80.06	1.57				3.23	56.23	1.02	11.80	156.19
Granite	19.80	1,262.84	1,618.89	1735.00	1,571.59		220.88	794.21	81.47	695.93	8,000.61
Meagher		576.30	57.13	78.09	47.15		13.94	102.36	31.25	302.97	1,209.19
Liberty		20.58	13.06	32.39			6.46	39.97	1.02	8.20	121.68
Park		1,259.40	2,179.43	3,398.92	1,567.31	644.57	6.12	1,454.65	71.96	1,189.00	11,771.36
Garfield		134.29	169.03	253.44			6.46	157.00	10.18	22.60	753.00
Jefferson	.32	712.23	1,075.19	1,015.11	1,399.29		6.46	631.30	23.04	774.00	5,636.94
Wibaux	2.29	59.90	1.57				3.23	39.08	1.02	5.80	112.89
Golden Valley		99.30	101.11	115.14	64.03		6.46	195.39	2.81	9.40	593.64
Mineral	243.16	1,006.58	908.38	1,986.53	1,007.36		84.99	733.18	93.19	996.61	7,019.78
Petroleum		22.23	138.30	110.16			6.46	176.83	1.24	10.60	465.82
Lincoln	808.05	3,449.81	4,914.15	7,248.56	3,859.48	1,742.43	95.36	3,956.49	279.12	2,982.67	29,336.12
TOTAL	1,546.87	~~11,144.97~~ 31,341.91	35,395.07	52,818.98	26,860.43	5,497.57	1,258.42	~~28,896.68~~ [illegible]	~~2,430.11~~ [illegible]	20,217.27	~~285,975.82~~ 284,211.67

SENATE MEMBERS
CARROLL GRAHAM
CHAIRMAN
FRANK HAZELBAKER
VICE CHAIRMAN
CECIL T BLAYLOCK
JOHN M. GOODOVER
ROCKY WEBER
EXECUTIVE DIRECTOR
ELEANOR ECK
ADMINISTRATIVE ASSISTANT
ROBERTA MOODY
DIRECTOR, LEGISLATIVE SERVICES

Montana Legislative Council

State Capitol
Helena, 59601

(406) 449-3064

HOUSE MEMBERS
JOHN B. DRISCOLL
OSCAR KVAALEN
J. D. LYNCH
ROBERT L. MARKS
DIANA DOWLING
DIRECTOR, LEGAL SERVICES, CODE COMMISSIONER
ROBERT PERSON
DIRECTOR, RESEARCH

November 17, 1977

TO: Revenue Oversight Committee

FROM: Teresa Olcott Cohea Terry

RE: TIMBER TAXATION

As the Committee requested, I have gathered information on the following topics:

I. Analysis of HB 83 (1977 session)

A. Description and Rate of Tax
B. Administration of the Yield Tax and Surtax
C. Distribution to Local Governments
D. Rollback Tax
E. Miscellaneous Provisions
F. Fiscal Effects
G. Effect on Local Governments: Bonds, Mill Levies, Local Salaries

II. Analysis of William Kirkpatrick's Proposed Bill

A. Description of Harvest Tax
B. Comparison With HB 83
C. Drafting Suggestion

III. How Other States Distribute Timber Revenue to Local Governments

A. Wisconsin
B. New Hampshire
C. Washington
D. Oregon

I. ANALYSIS OF

A. DESCRIPTION AND RATE OF TAX

HB 83 exempts timber growing on private land from property taxation and imposes a yield tax and a surtax on all timber harvested from public and private land, effective January 1, 1979.

The rate of yield tax established in the bill is

For timber harvested between 1/1/79 - 12/31/79	3%	of immediate harvest value
For timber harvested between 1/1/80 - 12/31/80	3.25%	" " " "
For timber harvested between 1/1/81 - 12/31/81	3.5%	" " " "
For timber harvested between 1/1/82 - 12/31/82	3.75%	" " " "
For timber harvested after 1/1/83	4.0%	" " " "

The Department of Revenue would determine the immediate harvest value at least once a year for each species in a specified area based on sales prices of similar timber in comparable locations. The immediate harvest value would "be determined in a manner that makes reasonable and adequate allowance for age, size, quality, cost of removal, accessibility to point of conversion, market conditions, and all other relevant factors." (p. 5, lines 2-4)

Under the bill, the land on which timber grew would remain on the tax rolls, subject to property tax.

A surtax of 1/2 of 1% of the immediate harvest value is also imposed on timber harvested during calendar 1979 and in any year in which the balance in the reserve fund (in which revenue from the surtax is deposited) drops below $300,000.

B. ADMINISTRATION OF THE YIELD TAX AND SURTAX

The Department of Revenue in Helena would

a) classify all land currently assessed as timberland as forest land, subject to the provisions of this bill;

b) determine, upon application by the owner, which other land classifies as forestland;

c) establish the immediate harvest value of each species or subclassification and determine which areas shall be treated as units for the application of immediate harvest values;

d) require that notice must be given before any harvesting (with exceptions as noted below) and tax returns filed quarterly on harvest;

e) collect the yield tax quarterly and credit it to the appropriate accounts;

f) estimate yearly the amount of yield tax to be distributed to each school district, furnish this information to the respective county assessors, and distribute the funds to county treasurers quarterly;

g) determine the rollback tax due if land is changed from forestland;

h) assess a 10% penalty and interest at 8% a year for failure to file a statement of tax due or pay the tax; and

i) review the method of distribution and rate of taxation at the end of four years and make recommendations to the legislature.

Since county assessors rather than Helena employees of the Department of Revenue currently perform most of the functions of timber taxation, this bill would require an expansion of Property Assessment Division staff. Virgil Byford, forester for the division, estimates that eleven additional staff members would be needed to calculate immediate harvest values, issue harvest permits, calculate the tax distribution to local governments, and "police" the law.[1] The fiscal note attached to the bill set the increased cost of administration at $155,000 a year.

C. DISTRIBUTION TO LOCAL GOVERNMENTS

HB 83 establishes two steps for distributing the yield tax collected to local governments. For the years 1979 through 1983, the percentage distributed to each school district would depend on the taxable value of the standing timber in that district in 1978, compared to the taxable value of all the standing timber in the state. This would be multiplied by the average yield tax collected in the whole state since the bill became effective.[2] For example, suppose a school district in Lincoln County had 1% of the taxable value of timber in the whole state in 1978. In 1983, the yield tax collected was $2,000,000; the yield tax collected in the previous years was: 1979 - $1,050,000; 1980 - $1,900,000; 1981 - $2,500,000; and 1982 - $1,800,000. The amount distributed to the Lincoln School District would be $18,500 or 1% x $\frac{\$2.0M + \$1.05M + \$1.9M + \$2,5M + \$1.8M}{5}$

Beginning in 1984, the distribution formula would be changed: the proportion which the harvest factor of the district (the average of the aggregate value of all the timber harvested within the school district during the past 5 or fewer years) bears to the harvest factor of the whole state (the average of the aggregate value of

all the timber harvested within the state during the same period) determines the amount. So, in 1992, a school district in Sanders County would receive $100,000 1) if the average value of the timber harvested there during the past five years was $1,000,000; 2) the statewide total was $20,000,000; and 3) the yield tax collected in 1992 was $2,000,000. $\left[\frac{\$\ 1M}{\$20M} \times \$2,000,000\right]$

By using a 5-year average, fluctuations caused by market changes and low harvest years would be avoided. The table on the following page shows the amount of fluctuation in recent years' timber harvests.

In addition to this distribution, each school district would receive money from the timber tax reserve fund when the amount in that fund exceeded $400,000. The amount each school district receives would be determined by the proportion the district's yield tax for that year bears to the whole. So, if the reserve account contained $600,000, the school district near Lincoln would receive $2,000.

D. ROLLBACK TAX

The bill imposes a rollback tax on forest land which is converted to other uses. The Department calculates the tax due by the same method used in the rollback tax for agricultural land (section 84-437.4). Rollback tax collected is paid to the county treasurer and distributed to the local government units according to the tax levies for that year.

E. MISCELLANEOUS PROVISIONS

Owners may harvest $200 worth of timber for personal use in any quarter without notifying the Department or paying the tax.

Owners incurring less than $10 total tax liability under the bill in any quarter are not required to pay the tax but may be required to file a quarterly return.

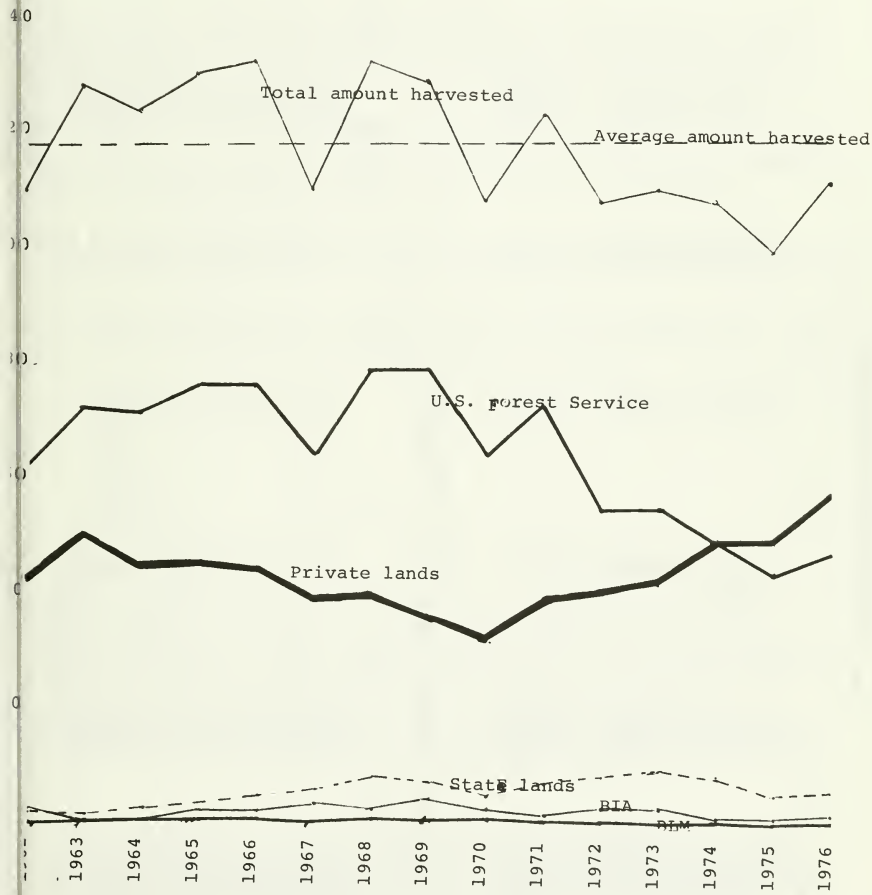
Christmas trees "grown on land prepared by intensive cultivation and tillings . . . and on which all unwanted plant growth is controlled continuously for the exclusive purpose of raising such Christmas trees" are exempt from the yield tax.

F. FISCAL EFFECTS

The fiscal note for HB 83 (copy attached) estimates that local governments would realize an additional $700,000 per year if this bill were enacted. The Department of Revenue staff could be consulted if the committee desired further information on the bill's effect in specific counties or the fiscal effect of different tax rates.

The attached chart and table shows the total timber harvested in Montana during the past 15 years and the ownership

SOURCE AND AMOUNT OF TIMBER HARVESTED IN MONTANA
1962-1976



Source:School of Forestry, University of Montana, unpublished data

OMNITAB-MONTANA TIMBER HARVEST
MONTANA TIMBER HARVEST,BY OWNERSHIP CLASS,1962-1976

CAL. YEAR	USFS	BLM	BIA	STATE	PRIVATE	TOTAL
1962.0	631.9	7.2	23.1	30.1	424.6	1116.9
1963.0	726.2	9.9	22.3	25.2	509.6	1293.2
1964.0	722.1	12.5	37.7	28.0	459.2	1259.5
1965.0	774.6	19.1	30.0	28.7	463.0	1315.4
1966.0	785.7	19.4	57.1	23.3	453.7	1339.2
1967.0	658.7	13.5	61.9	40.3	403.2	1177.6
1968.0	796.9	19.4	83.9	34.0	405.2	1339.4
1969.0	799.7	15.0	78.8	46.7	362.2	1302.4
1970.0	651.7	15.8	53.5	28.2	339.2	1088.4
1971.0	738.6	5.0	76.0	21.8	402.1	1243.5
1972.0	558.0	4.3	82.8	31.9	406.6	1083.6
1973.0	564.1	2.6	98.0	23.3	429.4	1117.4
1974.0	495.3	3.3	82.7	7.6	499.4	1088.3
1975.0	441.5	6.7	44.2	9.8	500.8	1003.0
1976.0	470.4	4.5	59.0	18.7	569.9	1122.5

MONTANA TIMBER HARVEST
PERCENT MONTANA TIMBER HARVEST,BY OWNERSHIP CLASS,1962-1976

CAL. YEAR	USFS	BLM	BIA	STATE	PRIVATE	TOTAL
1962.0	56.6	0.6	2.1	2.7	38.0	100.0
1963.0	56.2	0.8	1.7	1.9	39.4	100.0
1964.0	57.3	1.0	3.0	2.2	36.5	100.0
1965.0	58.9	1.5	2.3	2.2	35.2	100.0
1966.0	58.7	1.4	4.3	1.7	33.9	100.0
1967.0	55.9	1.1	5.3	3.4	34.2	100.0
1968.0	59.5	1.4	6.3	2.5	30.3	100.0
1969.0	61.4	1.2	6.1	3.6	27.8	100.0
1970.0	59.9	1.5	4.9	2.6	31.2	100.0
1971.0	59.4	0.4	6.1	1.8	32.3	100.0
1972.0	51.5	0.4	7.6	2.9	37.5	100.0
1973.0	50.5	0.2	8.8	2.1	38.4	100.0
1974.0	45.5	0.3	7.6	0.7	45.9	100.0
1975.0	44.0	0.7	4.4	1.0	49.9	100.0
1976.0	41.9	0.4	5.3	1.7	50.8	100.0

Source:UofM, School of Forestry, Unpublished Data; compiled by DNRC,Forest Management Bureau.

of the land on which it was cut. As discussed at the last meeting, the amount of timber harvested does vary from year to year, which could make tax revenue vary. However, the 5-year average "harvest factor" used in HB 83 would even this variation and make revenue fairly predictable.

Most timber in Montana is harvested from U.S. forest land and private land, as shown on the chart and in the accompanying figures. The amount cut from private land is increasing as that from USFS land decreases. The percentage cut from state land is less than 3% most years.

G. EFFECT ON LOCAL GOVERNMENTS: BONDS AND MILL LEVIES

By removing standing timber from tax rolls, HB 83 would lower the taxable value in many local government taxing jurisdictions. The ramifications are discussed below.

The taxable value of local government units is used to determine, among other things: 1) the limits on bonded indebtedness; 2) maximum mill levies; and 3) county officials' salaries.

At present, the taxable value of timber is far less than 1% of the total tax base in most counties. In only 8 counties does the taxable value of timber exceed 1% of the total:

Flathead	1.6
Granite	3.4
Lake	1.1
Lincoln	5.9
Mineral	4.6
Powell	4.6
Ravalli	1.4
Sanders	3.8*

Removing standing timber from the tax rolls could decrease the counties' total taxable value by 1% - 6%. (These figures include timberland which would continue to be taxed and be calculated in the taxable valuation; so the possible loss in taxable valuation would be lower than the above percentages.) Since counties' taxable valuations commonly vary this much from year to year, the impact on local governments from this bill may be minimal.

However, this cannot be stated with certainty, since the proportion of timber to other property in a single jurisdiction might be much higher: i.e., a school district in Sanders County may have 20%

*This corrects an error contained in my research report presented at the last meeing (p. 17), in which I said that the ratio of timber to the taxable value of other property in these counties ranged from 4% - 23%. In calculating this percentage, I mistakenly compared the assessed value of timber to the taxable value of the county.

of its total taxable value in timber. Therefore, I have checked how close these counties and the cities and towns in them are to their statutory limits.

1) Bonded Indebtedness

Counties

Section 16-807 states that counties may not incur indebtedness exceeding 18% of their taxable value. No county has over 8% indebtedness, except Sanders County, which floated a large bond issue for a bridge and has 37.5% indebtedness.* With so large a debt, Sanders County will not be issuing any bonds for many years. Thus, lowered taxable valuations caused by removing timber from tax rolls should not cause problems for counties' bonding limits.

2) Cities and Towns

Section 11-2303 limits cities' and towns' total indebtedness to 18% of taxable value; 10% more of taxable value is allowed if bonds are issued for a sewage system.

Of the 21 cities and towns in these seven counties, only two have debts in excess of 10% of taxable value: Darby at 10.8% and Alberton at 22.7%. So, a slightly lower amount of total possible debt should pose no problem for most cities and towns.

3) School Districts

Section 75-7104 limits school districts' bonded indebtedness limit to 29% of taxable value.

I have researched the bonding limits of 55 districts in these counties and found that only one district had more than 15% indebtedness: Ronan and Pablo elementary district at 32.8%. Forty percent of the districts had no debt at all and another 38% had less than 10%.

4) County Officials' Salraies

Section 25-605 provides a table for determining the salaries of county officials.

A decrease in taxable value of $1,000,000 causes a loss in salary of $131; a decrease of $2,000,000 about $116; and a decrease of $5,000,000 about $235. So a 1% - 6% decrease in taxable valuation will probably have no effect on county officials' salaries.

*Sanders County's taxable valuation was larger when the bond was issued; the bond amount was within the limit.

5) Mill Levies

Since mill levies are applied to the taxable value to determine the tax revenue due, a loss in taxable value means, of course, a loss of tax revenue. Moreover, 84-4701.2 limits the all-purpose mill levy for cities and towns to 65 mills on the taxable value.

HB 83 does provide that the estimated yield tax due to each school district may be "converted to taxable value" and included "in the taxable values to be used by the county commissioners in setting mill levy rates." (p. 10, lines 8-11) However, the inclusion of a value against which the mill cannot be applied in the taxable value used to set the mill is new to Montana law and may require more research. Would this value be included when calculating the mill levy limit? Would it be included when bonded indebtedness limits were established? Several other states use the same language, but I have found no court cases or Attorney General's opinions concerning the provision.

If this value can not be included for mill levy limit purposes, the loss in taxable value caused by HB 83 could present a problem to some cities and towns. Many of the cities and towns in these counties levy the maximum mills. Lowering the taxable valuation may cause them difficulty. However, other factors often cause taxable valuation to fluctuate 3% - 5% a year, a fact with which local governments have coped in previous years. Moreover, taxable valuations will rise substantially in most cities and towns when the reappraised values are placed on tax rolls.

II. DESCRIPTION OF HARVEST TAX

As the committee requested, I have reviewed the draft legislation proposed by William Kirkpatrick, Champion International, (Bill B).

This bill exempts standing timber from property taxation and imposes a harvest tax of $7.00/thousand cubic feet of merchantable wood fiber harvested from private or public land west of the Continental Divide and $3.50/thousand cubic feet east of the Divide. Private land on which timber grew would still be subject to property taxation and would be assessed as grazing land under the existing assessment practices. This bill would become effective January 1, 1981.

In all other respects, the bill is the same as HB 83. The Department of Revenue would issue harvest permits, collect the tax, and distribute it to local governments. The land now assessed as timberland would be subject to this bill; owners desiring designation of their land as forest land could apply to the Department. The same rollback tax would be levied against forest land whose use was changed. The tax collected would be distributed to the local governments in exactly the same manner as outlined in HB 83. Christmas trees and wood cut for one's own purposes are exempt.

Comparison With HB 83

1) The method of taxation under Bill B is much simpler than that proposed in HB 83. Bill B imposes a fixed fee based on the volume. HB 83 requires tables to be prepared at least yearly, using sales prices for each species in varying locations with varying conditions. One measure of their relative complexity is that Bill B would require one additional staff person in the Department of Revenue; HB 83 would require 11.[3]

However, this fee method does not allow consideration for degrees of difficulty in harvesting timber and the resulting cost. HB 83 provides that "quality, cost of removal, accessibility to point of conversion" all be considered in calculating immediate harvest value. Nor does this fee reflect changing market conditions as the annual (or more frequent) calculation under HB 83 would. The fee could only be adjusted biennially when the legislature met.

2) The tax rates in the bill were calculated to increase the revenue to local governments slightly. The committee may wish the Department of Revenue to study the fiscal effects of the bill more thoroughly.

Drafting Suggestions

1) The bill should probably contain a preamble stating clearly why timber harvested on different sides of the divide is subject to different fees to avoid changes of arbitrary discrimination in taxation.

2) The formula for distributing the harvest tax to local governments (pp. 9-10) is unclear, as "harvest factor" is not defined here as it is in HB 83.

III. HOW OTHER STATES DISTRIBUTE TIMBER REVENUE TO LOCAL GOVERNMENTS

WISCONSIN

Wisconsin levies two taxes on timber: an acreage tax of between 10¢ - 20¢ per acre of forest land and a severance tax of 10% of the stumpage value. The acreage tax is collected by local officials and apportioned 20% to the county and 80% to the nearest town. The State Department of Revenue collects the severance tax and returns it to local officials in proportion to the amount harvested in the county. This money is apportioned 20% to the county, 80% to the towns (evidently on where the timber was harvested).

NEW HAMPSHIRE

For 25 years, New Hampshire has granted special aid to towns adversely affected by the transition from property taxation to the severance tax. This aid will cease in 1979. The formula for

distributing this aid is outlined below:

79:23 Special Aid for Heavily Timbered Towns. In addition to the forest conservation aid to which a heavily timbered town would be entitled under the provisions of section 21 of this chapter it shall, beginning with October 1, 1955 also receive special aid in full as computed hereafter. For the tax year beginning October 1, 1955 such special aid shall be an amount equal to the difference between, (1) the amount of revenue the town would have received from a tax levied on the average assessed value of growing wood and timber therein for the years 1944–1948 inclusive reckoned at its 1955 average tax rate deducting therefrom (a) an amount equal to five cents on each one hundred dollars of the locally assessed valuation of the municipality as equalized by the tax commission for April 1, 1952, less the total veterans' tax exemption on property in said town for the current year, and (b) any property tax assessed under section 5 of this chapter, and (c) the amount of the normal yield taxes assessed under section 3 of this chapter for the year for which such special aid is requested, and (2) the forest conservation aid for such town as computed under section 22 hereof. The amount of the special aid to which a heavily timbered town may be entitled by this section for any year following the tax year beginning October 1, 1955 shall be the difference between, (1) the amount of revenue the town would have received from a tax levied on the average assessed value of growing wood and timber therein for the years 1944–48 inclusive reckoned at its 1955 average tax rate or the current local rate of taxation, whichever is lesser, deducting therefrom (a) an amount equal to five cents on each one hundred dollars of the locally assessed valuation of the municipality as equalized by the tax commission for April 1, 1952, less the total veterans' tax exemption on property in said town for the current year, and (b) any property tax assessed under section 5 of this chapter, and (c) the amount of the normal yield taxes assessed under section 3 of this chapter for the year for which aid is requested, and (d) the accumulated amount as computed for each preceding year of five cents on each one hundred dollars of the locally assessed valuation of the municipality as equalized by the tax commission for April 1, 1952, and (2) the forest conservation aid for such town as computed under section 22 hereof.

WASHINGTON

When Washington changed its method of taxing timber from ad valorem to yield in 1971, the legislature provided a three-year "phase-out" period:

(1) Upon every person engaging within this state in business as a harvester of timber; as to such persons the amount of tax with respect to such business shall be equal to the stumpage value of timber harvested for sale or for commercial or industrial use multiplied by the appropriate rate as follows:

(a) For timber harvested between October 1, 1972 and September 30, 1973 inclusive, the rate shall be one and two-tenths percent;

(b) For timber harvested between October 1, 1973 and September 30, 1974 inclusive, the rate shall be determined and fixed by the first session of the legislature commencing on or after January 1, 1972, whether regular or extraordinary, in accordance with the purposes and intent of section 18 of this 1971 amendatory act.

(c) For timber harvested on or after October 1, 1974, the rate shall be determined and fixed by the first session of the legislature commencing on or after January 1, 1972, whether regular or extraordinary, in accordance with the purposes and intent of section 18 of this 1971 amendatory act.

The amount of yield tax allocated to each taxing jurisdiction is determined as follows:

(1) On or before December 15 of each year commencing with 1972 and ending with 1980, the assessor of each timber county shall deliver to the treasurer of such county and to the department of revenue a schedule setting forth for each taxing district or portion thereof lying within such county:

(a) The value of timber as shown on the timber roll for such year;

(b) The aggregate millage rate calculated pursuant to section 6 of this act and actually utilized the immediately preceding October in extending property taxes upon the tax rolls for collection in the following year;

(c) A "timber factor" which is the product of such aggregate millage rate and the appropriate portion listed below of the timber roll for such year ((a) above):

YEAR	PORTION OF TIMBER ROLL
1972	25%
1973	55%
1974 through 1977	100%
1978	75%
1979	50%
1980	25%

On or before December 31 of each year commencing with 1972 and ending with 1980, the department of revenue shall determine the proportion that each taxing district's timber factor bears to the sum of the timber factors for all taxing districts in the state, and shall deliver a list to the assessor and the treasurer of each timber county and to the state treasurer showing the factor and proportion for each taxing district.

(2) On the tenth day of the second month of each calendar quarter, commencing February 10, 1973 and ending November 10, 1981, the state treasurer shall pay to the treasurer of each timber county for the account of each taxing district such district's proportion (determined in December of the preceding year pursuant to subsection (1) of this section) of the amount in state timber tax fund A collected upon timber harvested in the preceding calendar quarter, but in no event shall any quarterly payment to a taxing district, when added to the payments made to such district the previous quarters of the same year, exceed the timber factor for such district determined in December of the preceding year. The balance in state timber tax fund A, if any, after the distribution to taxing districts on November 10 each year commencing with 1973 and ending with 1981, shall be transferred to the state timber reserve fund.

(3) If the balance in state timber tax fund A immediately prior to such November 10 distribution to taxing districts is not sufficient to permit a payment which, when added to the payments made to any taxing district the previous quarters of the same year, will equal the timber factor for such district determined in December of the preceding year, the necessary additional amount shall be transferred from the state timber reserve fund to state timber tax fund A.

(4) The balance, if any, in the state timber reserve fund after the final transfer, if any, to or from state timber tax fund A in November of 1981, shall be transferred to state timber tax fund B on December 31, 1981, and one-fourth of such balance shall be distributed in each quarter of 1982 in the manner set forth in subsection (6) of this section.

(5) On or before December 31 of each year commencing with 1978, the department of revenue shall deliver to the treasurer of each timber county a schedule setting forth for each taxing district or portion thereof lying within such county:

(a) The average of the aggregate value of all timber harvested within such district in each of the immediately preceding five years as determined from the excise tax returns filed with the department of revenue;

(b) The aggregate millage rate calculated pursuant to section 6 of this act and chapter 84.52 RCW and actually utilized the immediately preceding October in extending property taxes upon the tax rolls for collection the following year;

(c) A "harvest factor" which is the product of such five year average and such aggregate millage rate;

(d) The proportion that each taxing district's harvest factor bears to the sum of the harvest factors for all taxing districts in the state.

(6) On the tenth day of the second month of each calendar quarter commencing February 10, 1979, the state treasurer shall pay to the treasurer of each timber county for the account of each taxing district such district's proportion (determined in December of the preceding year pursuant to subsection (5) of this section) of the amount in state timber tax fund B collected upon timber harvested in the preceding calendar quarter.

OREGON

The Eastern Oregon Severance Tax provides for the distribution of revenue to local governments in much the same way HB 83 does:

> (3) Subject to ORS 321.490 and subsection (2) of this section, the records of the department shall reflect each county's credit which shall be proportionate to the total credit in the same proportion that each county's total appraised timber valuation bears to the total appraised timber valuation for eastern Oregon. Appraised valuations of timber for purposes of ORS 321.405 to 321.520 shall be those determined in accordance with the provisions of ORS 306.127 (1961 Replacement Part), as adjusted by the department, or with the department's approval, as of July 1 of each year. After July 1, 1964, however, the appraised values as of that date shall serve as the basis for the allocation of severance tax revenues under ORS 321.405 to 321.520, except that readjustments in such appraised values shall be made annually for the purpose of subtracting or adding the appraised valuations of timber on reforestation lands which have been on or before July 1 of each year classified or declassified and for the purpose of subtracting or adding the appraised valuations of timber which before July 1 of each year has been transferred into or out of ownerships exempt from taxation.
>
> (4) All moneys credited to the counties pursuant to subsection (3) of this section are continuously appropriated to the counties in whose names they are credited, and the full amounts remaining to the credit of each county as of the 10th day of the second month following the close of each of the calendar quarters designated in ORS 321.435 shall be remitted to the county treasurers of the respective counties on or before the 15th day of that month. Remittances shall be made by the Department of Revenue from the suspense account referred to in subsection (1) of this section.

Therefore, the following answers from John Lobdell, Director of the Department of Revenue, may be of interest to the committee:[4]

Q. Did tax revenue to local governments decline as a result of the passage of the Eastern Oregon Severance Tax?

A. Revenues to local taxing districts in Oregon equal the budgets derived by statutory budgeting processes. The amount of

levy per $1,000 of assessed value of property depends on the size of the budgets and the amount of value in the district. Therefore, the change from an ad valorem timber tax to a severance tax did not reduce the revenues of districts but may have caused an increase in levy and, of course, a shift from timber to other types of property. I do not have a study to determine how much of this occurred.

Q. Do county officials feel that the distribution and allocation procedures (ORS 321.485 and 321.515) create more work than the previous method of assessment and taxation?

A. I do not have a survey of the feelings of the county officials, but from my experience with the operation of both types of laws, I would say that the job of distributing severance tax receipts is much smaller and less complicated than the assessment procedures were.

Bill Penhollow, Executive Assistant, Association of Oregon Counties, provided much the same information:[5]

Q. Did local governments suffer a loss in tax revenue after the passage of this act or was equal revenue realized from the distribution of the severance tax moneys (Oregon Statute 321.485)?

A. There was no loss to local taxing units upon enactment of the Eastern Oregon Severance Tax. Oregon law provides that the taxing units submit budgets to the county assessor who then distributes the tax load according to the assessed value shown on the assessment roll. The severance tax money is distributed back to the counties according to the formula and payments are used as property tax levy offsets in the ensuing year. While there was no loss of revenue, there was some shift in the tax burden since the contribution of timber was about 50 percent less after enactment of the law. This has changed somewhat over the years since property taxes in general have increased at a rate of about nine percent per year while collections from the severance tax have increased at a rate of about 14.5 percent annually since 1965.

Q. Are counties satisfied with the distribution formula of the severance tax (OR 321.485)?

A. To my knowledge there have been no serious concerns over the distribution formula, other than a desire on the part of some officials to update the formula from the 1964 base.

Q. Do local government officials have any particular difficulties with the law or its implementation? Do they feel it is an equitable and efficient way of taxing timber?

A. No particular difficulties other than those stated earlier. The law is administered by the Department of Revenue except for distribution and collection to the local taxing units by the county treasurer. There is no doubt that a severance tax is less costly

to administer than an ad valorem tax. Whether the severance tax is more equitable is dependent upon the philosophical views of those involved. The law in Oregon appears to be meeting the objectives established by the legislature, in general, that is to encourage a sustained yield forestry program. The legislative intent of this law is stated more specifically in the statutes as enclosed.

FOOTNOTES

[1]Telephone conversation, 7 November 1977.

[2]This interpretation of the distribution formula was verified with Virgil Byford, 7 November 1977.

[3]*Ibid*.

[4]Letter from John Lobdell, 19 October 1977.

[5]Letter from Bill Penhollow, Executive Assistant, Association of Oregon Counties, 8 November 1977.

SIATE MEMBERS
CIROLL GRAHAM
CHAIRMAN
FNK HAZELBAKER
VICE CHAIRMAN
CT BLAYLOCK
M. GOODOVER
E WEBER
XECUTIVE DIRECTOR
LANOR ECK
DMINISTRATIVE ASSISTANT
KERTA MOODY
IRECTOR, LEGISLATIVE SERVICES

Montana Legislative Council
State Capitol
Helena, 59601
(406) 449-3064

HOUSE MEMBERS
JOHN B DRISCOLL
OSCAR KVAALEN
J. D. LYNCH
ROBERT L. MARKS
DIANA DOWLING
DIRECTOR, LEGAL SERVICES; CODE COMMISSIONER
ROBERT PERSON
DIRECTOR, RESEARCH

January 6, 1978

TO: Revenue Oversight Committee

FROM: Teresa Olcott Cohea TOC

RE: Timber tax study

Representative Huennekens has asked me to send you the enclosed bill draft, submitted by William Kirkpatrick of Champion International.

This bill draft incorporates some of the comments made by the committee and witnesses on Mr. Kirkpatrick's earlier draft at the November 17 meeting, making the following changes:

1) The harvest tax rate is changed to $7.00/thousand cubic feet of timber harvested west of the continental divide and $4.50/thousand cubic feet east of the divide, to conform more nearly to empirical data on the value of the timber.

2) Timber on private land is still subject to property taxation. However, the Department of Revenue issues tax credits to timberland owners for the amount of harvest tax paid and distributes the harvest tax to the counties in proportion to the taxable value of timber in that county. This change in the bill was designed to

   a) avoid the bonding problems of HB 83 and earlier drafts of this bill. Since timber is still subject to property taxation, bond and levy limits will not be affected by the bill.

   b) simplify the distribution formula for the harvest tax.

A discussion of this bill draft and other timber taxation matters is scheduled for the January 21 meeting, if time permits.

TOC:ee
Enc.

TE MEMBERS
OLL GRAHAM
IRMAN
K HAZELBAKER
CHAIRMAN
BLAYLOCK
I. GOODOVER
S. DOWLING
UTIVE DIRECTOR
E COMMISSIONER
OR ECK
INISTRATIVE ASSISTANT
RTA MOODY
CTOR, LEGISLATIVE SERVICES

Montana Legislative Council

State Capitol
Helena, 59601
(406) 449-3064

HOUSE MEMBERS
JOHN B. DRISCOLL
OSCAR KVAALEN
J.D LYNCH
ROBERT L MARKS
H DAVID COGLEY
DIRECTOR, LEGAL SERVICES
ROBERT PERSON
DIRECTOR, RESEARCH

May 1, 1978

To: Revenue Oversight Committee

From: Teresa Olcott Cohea TOC

Re: Timber Taxation

At its last meeting the Committee asked me to research the following questions:

a) From what sources do local governments receive federal payments-in-lieu of tax on federal timberland?

b) How much did the counties receive from these sources in 1977?

c) Would a state tax imposed on the harvest of federal timber lower the amount of federal revenue?

d) How could timberland be valued on productivity?

e) Can timber be valued more equitably on mill or stumpage value?

These questions are discussed in the attached memorandum.

Also attached is the bill draft on timber taxation the Committee requested.

TOC:eh

I. FEDERAL PAYMENTS FOR FEDERAL TIMBERLAND

Local governments receive two types of payment for federal timberland -- forest receipts and payment-in-lieu of taxes. These sources of revenues are significant since over 45% of the timber harvested in Montana comes from federal lands.

The following amounts of forest receipts were distributed to the counties for fiscal year 1977:

Beaverhead	$140,068.68	Lincoln	3,370,547.73
Broadwater	8,363.81	Madison	82,925.32
Carbon	22,333.57	Meagher	21,976.09
Carter	6,585.93	Mineral	491,947.24
Cascade	8,974.28	Missoula	581,631.52
Chouteau	1,619.01	Park	29,566.36
Deer Lodge	27,310.52	Powder River	25,212.76
Fergus	4,693.35	Powell	438,542.27
Flathead	2,169,924.21	Pondera	5,398.73
Granite	264,578.03	Ravalli	237,638.30
Gallatin	21,340.39	Rosebud	7,059.39
Glacier	1,281.07	Silver Bow	38,409.26
Golden Valley	1,197.03	Sanders	934,368.29
Judith Basin	14,825.73	Stillwater	13,725.85
Jefferson	85,610.74	Sweet Grass	13,269.36
Lake	194,183.52	Teton	11,910.76
Lewis & Clark	148,013.60	Wheatland	3,347.28 [1]
		Total	$9,428,379.98

The federal government began providing these payments in 1908 to states "for the benefit of the public schools and public roads of the county or counties in which a national forest is located." State law provides that 2/3 of the amount allocated to each county goes to the general road fund and 1/3 to the county elementary district foundation program (79-205).

Prior to 1976, 25% of the net return from federal timber contracts was returned to the counties. The forest receipts received did not affect other federal payments received. Since October 1, 1977, however, counties receive 25% of the gross returns from federal contracts but this amount is deducted from the next year's payment-in-lieu of taxes.

The "Good Neighbor Legislation of 1976", providing payment-in-lieu of taxes (PILT) for local governments which lose tax base through federal ownership of land, also returned significant amounts of revenue to the state. In 1977, 34 counties containing forest service land received a total of $2,617,394:

Beaverhead	$ 41,832	Lincoln	447,681
Broadwater	8,604	Madison	26,504
Carbon	16,634	Meagher	9,730
Carter	4,858	Mineral	284,893
Cascade	3,121	Missoula	267,426
Chouteau	563	Park	25,110
Deer Lodge	6,489	Pondera	1,877
Fergus	1,632	Powder River	18,588
Flathead	508,824	Powell	148,398
Gallatin	18,073	Ravalli	73,060
Glacier	445	Rosebud	5,207
Golden Valley	416	Sanders	386,002
Granite	122,683	Silver Bow	10,656
Jefferson	27,247	Stillwater	10,124
Judith Basin	5,156	Sweet Grass	10,076
Lake	46,103	Teton	4,142
Lewis and Clark	74,126	Wheatland	1,114

2

These payments were based on a two-part formula:

1) for most forest service land, PILT is 75¢/acre a year minus other public land payments received by local government but not less than 10¢/acre;

2) for national forest wilderness acres created after December 31, 1970, the lesser of 1% of the fair market value of the land on date acquired by the federal government or the actual amount of the real property taxes assessed and levied on the land prior to acquisition. Federal law provides that PILT "may be used by the affected local governmental unit for any governmental purposes."

Thus, local governments received $12,045,774 in revenue from federal forest lands in 1977 and about $1,000,000 in property taxes from privately owned timberland. Considering that 50% of the timber harvested in the state was grown on private land, 48% on federal land and 2% on state land, federal timberland returns significantly more revenue to the local government than private land.

Nothing in the federal law requires PILT or forest receipt to be reduced if a state imposes a severance tax on timber harvest on federal lands.

II. STATE IN-LIEU PAYMENTS

Title 8, chapter 11, requires the state to make equalization payments to counties in which more than 6% of the total land area is state-owned. However, less than $35 in equalization payments for state timberland was paid in 1977. Although the state owns many acres of timberland, they are in counties in which the total of state-owned lands is less than 6% of the counties' land area. Most of the counties with over 6% are prairie land in the eastern part of the state. Only Beaverhead County receives equalization payments for forest land -- and it received less than $35 last year.[3]

Fees from the sale of state timber, as provided under 81-1601, are paid to the school equalization fund.

III. VALUING TIMBERLAND ON PRODUCTIVITY

Some foresters have suggested a new scheme for valuing timber, based on productivity.

Timberland would be classified into five categories, based on soil analysis, topography, water resources, and so on. Once determined, the categories would require revision only every 20 or 30 years. New valuation schedules, establishing the value of acreage in each category, could be revised as necessary.

One problem with this scheme, however, is that the initial cost of determining the categories and classifying the states' timberland would be over $1,000,000. This would be an infrequent cost, since the categories would not require regular revision, but it is a large initial cost since the annual amount of revenue collected from the property tax on timberland is about $1,000,000.

The current system of assessment is, in part, based on the productivity of the timberland. While it was designed to be an inventory of existing timber, its survey of crown cover, species, and topography does demonstrate the amount of detail necessary to value land on productivity.[4]

A project currently underway -- being done cooperatively by the Department of Revenue, Department of Natural Resources, and the University of Montana -- may make valuations based on productivity or updating the current inventory valuations less costly. This project is evaluating the use of satellite scans to determine forest cover, condition of forest, and quality of cover. A detailed description of this project is attached in Appendix A.

Within 9 months, the Department of Revenue will know if the satellite scan provides sufficient detail to update the inventory. If so, the cost of making forest land assessments current would be reduced from nearly $2,000,000 to about $22,000.[5] This new technology could remove the largest problem of the existing assessment system -- the difficulty and expense in updating.

IV. METHODS OF VALUING TIMBER

According to Department of Natural Resources and Department of Revenue staff, neither "mill value" or "stumpage value" have a standard meaning in the timber industry.[6]

"Mill value" can be interpreted as the value at which logs stockpiled at a lumber mill are assessed for property tax purposes. This lumber is valued at cost to the mill owner, as

shown in his purchase order. The Department of Revenue relies on the firm's cost accounting system in cases where timberland owners mill their own timber. "Mill value" could also be a value determined by either weight or volume. Mr. Kirkpatrick's bill, for example, imposed a tax based on volume at the mill. The term mill value is not widely used in the industry and does not have widely accepted meaning.

"Stumpage value" generally means the price the harvester paid for timber still on the stump. However, contracts setting timber prices sometimes require the harvester to construct or maintain roads or complete environmental protection projects, such as seeding cut banks.[7] "Stumpage value" could be defined as the price paid by the harvester, minus the cost of these projects. However, this definition brings with it the difficulties of net vs. gross proceeds taxation -- defining which deductions are allowable and auditing returns to check only the correct deductions were claimed.

Since the meaning of "stumpage value" and "mill value" is not standard in the timber industry, a bill establishing either would have to define the term carefully. However, either term would provide a possible method of valuation. Records at mill yards are adequate to assign a value for property tax purposes. Federal and private timber sales provide sufficient data for stumpage value to be imputed when the market transaction does not determine it.[9]

V. BILL

Attached in Appendix B is the draft of a bill that the Committee requested, imposing a tax on the stumpage value of timber. The bill incorporates much of the language contained in HB 83 of the last session with two major changes:

a) a harvest tax of 3% of the gross proceeds from sales on the stump is imposed instead of a tax on "immediate harvest value" (HB 83) or a flat rate on volume (Kirkpatrick's proposal).

b) the bill incorporates the property tax credit to private forest land owners contained in Mr. Kirkpatrick's bill.

NOTES

1. Provided by Greg McCurdy, Montana Association of Counties, 30 March 1978.

2. Ibid.

3. Information from John Osborne, Administrator, Centralized Services Division, Department of State Lands, 14 April 1978.

4. Information from Virgil Byford, Forester, Property Assessment Division, DOR, 25 April 1978.

5. Ibid. $10,000 for the scan, $12,000 to update the valuation schedules.

6. Information from Robert Griffes, Forestry Division, Department of Natural Resources and Conservation, 24 April 1978. Information from Virgil Byford.

7. Information from Slim Slattery, Chief, Personal Property Division, DOR, 28 April 1978.

8. Bob Griffes.

9. Verified by Bob Griffes and Virgil Byford.

INTRODUCTION

The State of Montana is faced with a continuing need for obtaining and keeping current land-use and land-cover information. Present methodology is costly in both time and money either precluding a complete, uniform inventory of the entire state or allowing for the attainment of such an inventory only at the sacrifice of accuracy and detail needed to meet DOR information requirements. Currently, DOR timberland valuation schedules are revamped every five years. DOR timberland assessment records are updated yearly only from information supplied by companies and individuals which does not adequately capture land-use changes for the most equitable tax assessments possible. Also, DOR cannot monitor changes in resource utilization and therefore must rely on originally collected data with moderate field checking of changes.

The Division of Forestry presently assesses the forest resource base by conventional photo interpretation and ground truth on a 10 year rotation. The present process currently meets the needs of the DOF, however, it seems desirable to assess the cost effectiveness of incorporating LANDSAT into our current forest resource inventory. The DOF would also like to evaluate the utility of LANDSAT for generating a forest type map.

Examples of extracting land-use and land-cover by means of a computer-aided analysis of LANDSAT multispectral scanner digital imagery (prepared by USGS and NASA under Phase II of the Pacific Northwest Land Resources Inventory Demonstration Project (Boise and Puget Sound), as well as others prepared earlier by USGS (Washington, D. C., and Phoenix), have shown sufficient promise to warrant further investigation by the State of Montana for use as an alternative to present methodology. Accordingly, DNRC, DOR, and U of M submit this proposed outline of a cooperative effort to be undertaken as one of a number of demonstration applications in the State of Montana.

OBJECTIVE

The primary objective of this effort is to demonstrate the feasibility of using computer-aided analysis of LANDSAT digital imagery along with photointerpretation (PI) for obtaining land-use and land-cover information consistent with the needs of Montana. These needs include: changes of forest cover including identifications of forest types and size classes, condition of forest (burned, diseased, regenerating) and quality of forest.

It is also an objective that user personnel be trained in the analysis techniques employed in remote sensing of resources including satellite imagery. This entails transfer of necessary software from NASA/JPL, and the training of state personnel in its application.

The final objective is to analyze costs entailed in remote sensing techniques.

STUDY AREA

The study area includes flight line 42, rows 27 and 28 imagery from NASA. These scenes encompass the Gallatin-Park and Cascade County Regions.

TECHNICAL APPROACH

Multispectral scanner digital imagery from LANDSAT will be analyzed using mixed-mode processing. Comparisons will be made on supervised and unsupervised classifications. Determination of the level of detail available through digital analysis of computer compatible tapes (CCT) will be accomplished. Analysis of

both methods individually and in combination will be carried out.

1976 DATA

If 1976 LANDSAT data are used (July 27), they will be corrected for skew and rotated north by NASA using Vicar/IBAS. Selection of 1976 of 1977 imagery has not been finalized at this writing. Ground truth and accompanying PI are available for 1976 and 1977.

It is assumed that JPL will register the Montana geographic files to the LANDSAT CCT's. At the option of the analysts, some of the remaining misclassification may be alleviated by dividing the area into a number of strata. In each, either strata-dependent statistics will be used, or the same statistical classes will be identified as different land covers depending on the strata.

Ground control points will be identified and a transformation computed between LANDSAT coordinates and Universal Transverse Mercator and Montana State Plane coordinates. A final classification will be run using a maximum likelihood classifier. After an evaluation of this classification, another will be run of the entire county to test the statistical methods applicability over a larger area and to provide a preliminary product over the entire study area.

1977 DATA

If necessary, 1977 imagery will provide sufficiently accurate interface with available ground truth. NASA is to correct for skew, rotate to north, and will carry out geographic registrations. The Forestry Revenue land-use classifications will be applied to scenes covering Meagher, Gallatin and Park counties if practicable. Also, if the Forestry/Revenue proposal is supported

by NASA, a cooperative interaction with them will be attempted to maximize the utility of this method of Montana's management agencies.

OUTPUT PRODUCTS

Lineprinter maps, transparencies, enlargements to fit existing base maps, and statistical aggregations of the data will be prepared for evaluation throughout the demonstration. These will be for Gallatin, Park and Meagher counties and be issued according to Table I after classifications are completed.

The Division of Forestry would like an additional table listing the predicted cover type for each of our primary sample points located in one of the training set polygons.

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "THE MONTANA FOREST HARVEST TAX ACT; IMPOSING A HARVEST TAX ON ALL TIMBER HARVESTED IN THE STATE OF MONTANA, WITH CERTAIN EXCEPTIONS; PROVIDING A ROLLBACK TAX ON FOREST LANDS CONVERTED TO OTHER USES AND A TAX CREDIT TO THE OWNERS OF FOREST LANDS; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. This act may be cited as the "Montana Timber Harvest Tax Act".

Section 2. Legislative findings. The legislature finds that:

(1) the interest of the state requires that steps be taken to modernize the system of taxing the value of trees on forest lands within the state of Montana;

(2) the existing ad valorem property tax system is unsatisfactory for the taxation of trees, standing or fallen, on forest lands and will continue to discourage good forestry, private ownership, and the investment of capital in all aspects of forest land management;

(3) it is desirable to revise the method of obtaining revenue from private forest lands by imposing a harvest tax

1 based on stumpage value on all timber harvested within the
2 state and providing private forest land owners with a tax
3 credit for the property tax paid on their forest lands.
4 Section 3. Legislative purpose. It is the purpose of
5 this act to impose a tax on all timber harvested within this
6 state and provide the owners of private forest lands with a
7 property tax credit on the taxable value of their timber.
8 It is also the purpose of this act to permit owners of
9 forest land to have their land taxed as class six property
10 under 15-6-108 and to provide a rollback tax on forest lands
11 converted to other uses.
12 Section 4. Definitions. As used in this act the
13 following definitions apply:
14 (1) "Department" means the department of revenue.
15 (2) "Forest land" means all land in any contiguous
16 ownership of 20 or more acres, exclusive of 5 acres of land
17 designated by the department as being used for or in
18 connection with a residence, growing forest tree species
19 which are capable or could be capable of furnishing raw
20 material used in the manufacture of lumber or other forest
21 products. The term also includes all land from which forest
22 tree species have been removed but have not yet been
23 restocked, but it does not include land converted to uses
24 other than the growing of forest tree species.
25 Identification and designation of forest lands shall be made

1 by the department, utilizing existing or future assessment
2 rolls, land classification information, provided that the
3 acreage limitation contained in this subsection does not
4 apply to any land assessed as timberland prior to [the
5 effective date of this act] and such land is entitled to
6 retain its timberland assessment until the owner
7 demonstrates a different use.
8 (3) "Harvest" means an activity related to the cutting
9 or the removal of forest trees for use or sale as a forest
10 product. It does not include the cutting of trees for
11 firewood, Christmas trees, or use by the owner for
12 construction or fencing on the forest land from which the
13 timber is harvested.
14 (4) "harvester" means each person, partnership,
15 corporation, or association of any nature who from privately
16 or publicly owned land, whether upon his own land or the
17 land of another, under a right or license granted by lease
18 or contract, either directly or by contracting with others
19 for the necessary labor or mechanical services, fells, cuts,
20 or takes timber for sale or use. It does not include
21 persons performing under contract the necessary labor or
22 mechanical services for an owner.
23 (5) "Owner" means each person, partnership,
24 corporation, or association of any nature to whom forest
25 land is assessed by a county assessor.

1 (6) "Timber" is synonymous with forest tree species
2 and means all wood growth, mature or immature, growing or
3 dead, standing or down, on all land that is capable of
4 furnishing raw material used in the manufacture of lumber or
5 other forest products. It does not mean Christmas trees
6 that are grown on land prepared by intensive cultivation
7 and tilling, such as by plowing or turning over the soil,
8 and on which all unwanted plant growth is controlled
9 continuously for the exclusive purpose of raising such
10 Christmas trees.
11 (7) "Value" means the gross proceeds from sales of
12 timber on the stump as shown in contracts, leases, or
13 purchase orders for the right to harvest the timber or a
14 price imported by the department under [section 8 of this
15 act], whichever is less.
16 Section 5. Designation of land as forest land. (1) In
17 any year commencing after December 31, 1980, an owner of
18 land whose intent is to use the land primarily for growing
19 timber, and which land is not designated as forest land by
20 the department, may request the department for designation
21 of such land as forest land. The application form shall be
22 prepared by the department and made available to owners by
23 the county assessor and shall include provisions for the
24 following information:
25 (a) a legal description of all land the applicant

desires to be designated as forest land;

(b) a brief description of the timber on the land or, if the timber has been harvested, the applicant's plan for restocking;

(c) whether the land is subject to a lease, option, or other right which permits it to be used for any purpose which conflicts with growing and harvesting timber;

(d) a statement of the applicant's intent to utilize the land primarily for growing and harvesting timber; and

(e) all other relevant information the department considers necessary.

(2) The department shall notify the applicant of approval or disapproval within 30 days of the date the application was filed. When the department disapproves an application, the reasons therefor shall be given the applicant in writing and the applicant may appeal the decision to the state tax appeal board, as provided in 15-2-302.

Section 6. There is a new M.C.A. section that reads:

Section 6. Rollback tax imposed -- method of calculation. (1) Land classified as forest land is subject to an additional tax known as the "roll-back tax" that is a lien upon the land and due and payable at the time of change of use. The word "roll-back" means the period preceding the change in use of the land, not exceeding 5 years, during

1 which the land was appraised, and taxed as forest land under
2 the provisions of this act.
3 (2) The department shall determine the amount of
4 roll-back tax chargeable on forest land by ascertaining:
5 (a) the taxable value of the land under the valuation
6 standards applicable to land in the county not designated as
7 forest land;
8 (b) the average mill levy applied in the taxing
9 district in which the land is located by dividing the
10 aggregate mill levy actually applied in each year of the
11 roll-back by the number of years included in the roll-back;
12 and
13 (c) the amount of roll-back tax due by multiplying the
14 taxable value computed under (a) by the average mill levy
15 computed under (b) and subtract the amount of property tax
16 acutally paid on the land during the period of the
17 roll-back.
18 (3) The assessment of roll-back taxes on former forest
19 land, the attachment of the lien for such taxes, and the
20 right of the owner or other interested party to review of
21 any judgment of the department are governed by the general
22 provisions of title 15, chapter 16 for collection of
23 property taxes. The roll-back collected shall be paid into
24 the county treasury and paid by the treasurer to the various
25 taxing units pro rata in accordance with the levies for the

1 current year.

2 (4) Designation and appraisal of land as forest land

3 depends upon continued use of the land primarily for growing

4 and harvesting timber and not upon continuance of the same

5 owner of title to the land.

6 Section 7. There is a new M.C.A. that reads:

7 Section 7. Rate of harvest tax -- exceptions. (1) Each

8 harvester of timber in Montana is subject to a tax at the

9 time of harvest equal to 3% of value.

10 (2) The tax under subsection (1) does not apply to

11 production for:

12 (a) Christmas trees;

13 (b) firewood; or

14 (c) use by the owner for construction or fencing on

15 the forest land from which the timber was harvested.

16 Section 8. There is a new MCA section that reads:

17 Section 8. When value of timber may be imputed --

18 procedure -- publication. (1) The department may impute a

19 value to the timber which approximates gross proceeds from

20 sales on the stump when:

21 (a) a harvester is using the timber in a milling or

22 manufacturing process;

23 (b) an owner sells timber under a contract which is

24 not an arm's-length agreement; or

25 (c) a harvester neglects or refuses to file

notification and returns is required by this chapter.

(2) When imputing value, the department shall compare gross proceeds from sales on the stump of similar timber of like quality and character at similar locations and in similar quantities, making adequate allowance for age, size, quality, cost of removal, accessibility to point of conversion, and all other relevent factors.

(3) Each subject taxpayer shall, upon request by the department, furnish a copy of his federal income tax return, with any amendments, filed for the year in which the value of timber is being imputed and copies of the contracts under which it is buying timber at the time.

(4) When the department's estimate of stumpage value is contested in any proceeding, the burden of proof is on the contesting party.

(5) The department shall prepare and publish the tables used in imputing value, which shall show the values of various species of timber in varying locations. These tables shall be revised and published annually and be furnished to anyone who submits a written request to the department.

Section 9. There is a new MCA section that reads:

Section 9. Notification of intent to harvest -- payment of tax -- filing of returns. (1) Prior to the harvesting of any timber, all harvesters must notify the

1 department of the intent to harvest and must secure from the
2 department a harvest tax collection number. When more than
3 one harvest is to be conducted in separate areas by the same
4 harvester, all harvests may be included on one notice. The
5 notification required by this section shall be on forms
6 prescribed by the department and shall include such
7 information as the department considers necessary. Promptly
8 upon receipt of the notice, the department shall provide the
9 harvester his harvest tax number and tax reporting forms.
10 (2) The harvest tax shall be due and payable quarterly
11 on or before the last day of April, July, October, and
12 January of each year for all timber harvested during the
13 preceding calendar quarter commencing with the calendar
14 quarter beginning January 1, 1981. Timber is considered
15 harvested for the purposes of this subsection at the time
16 when in the ordinary course of business the quantity of
17 timber harvested is first determined. The tax is delinquent
18 if not paid by the due date or within the additional time
19 allowed for filing under subsection (3) of this section.
20 (3) On or before the last day of April, July, October,
21 and January, each harvester shall make out a return on the
22 forms prescribed by the department showing the amount of tax
23 for which he is liable for the preceding calendar quarter
24 and shall mail or deliver the return, together with the
25 remittance for the amount of the tax, to the office of the

1 department at Helena, Montana. The return shall be signed
2 and verified by the harvester or his authorized agent.
3 Whenever good cause exists, the department may allow further
4 time not exceeding 30 days for filing a return and payment
5 of the tax due.
6 (4) All payments received shall be credited first to
7 penalty and then to interest accrued on the tax being paid
8 and then to the tax. Penalty, interest, and tax for prior
9 delinquent quarters shall be paid in full, chronologically,
10 before any payments are credited to any subsequent quarter.
11 (5) Any harvester incurring less than $10 total tax
12 liability in any quarter is excused from the payment of such
13 tax but may be required to file a quarterly return.
14 Section 10. There is a new MCA section that reads:
15 Section 10. Harvest tax account. (1) The revenue from
16 the harvest tax shall be deposited in a suspense account
17 established under the provisions of 17-2-104. After payment
18 of refunds pursuant to subsection (2) of this section, the
19 balance remaining shall be deposited in an earmarked account
20 to the credit of the harvest tax account, which account is
21 hereby established.
22 (2) The amount of moneys necessary to pay refunds of
23 the taxes levied under [Section 7] is appropriated
24 continuously to the department from the suspense account and
25 shall be used by the department for the payment of all

1 refunds of taxes levied under [Section 7] which have been
2 audited and approved by the department. Any penalties,
3 interest, and taxes then due from the taxpayer shall be
4 applied in computing any refund, and only the balance due
5 the taxpayer may be refunded.
6 Section 11. There is a new MCA section that reads:
7 Section 11. Forest land tax credits -- distribution of
8 harvest tax. (1) On July 30 of each year, the department
9 shall distribute the harvest tax collected to each county
10 treasurer in proportion that the taxable value of forest
11 land in that county bears to the taxable value of forestland
12 in the state as a whole as shown on current assessment
13 rolls.
14 (2) By November 1 of each year, the county treasurer
15 of each county shall issue tax credits to each owner of
16 forest land in the proportion the taxable value of his
17 timber bears to the taxable value of the timber in the
18 county multiplied by the total harvest tax received by the
19 county the preceding July. The owner may apply this credit
20 against the property tax due on his forest land for that
21 year.
22 (3) County commissioners and other officials shall use
23 harvest taxes received by the county in calculating mill
24 levies.
25 Section 12. There is a new MCA section that reads:

1 Section 12. Procedure to determine taxes -- penalty --
2 tax lien. (1) If any person fails, neglects, or refuses to
3 file any form required by [Section 9] or fails to make
4 payment of taxes within the time required, the department
5 shall immediately after such time has expired:
6 (a) proceed to inform itself, as best it may,
7 regarding the amount of timber harvested and the number of
8 acres of forest land held by such quarter or year;
9 (b) impute the timber's value, is specified in
10 [section 8 of this act], to the state from such person for
11 the quarter or year and complete a statement in duplicate,
12 showing the same;
13 (c) add a penalty charge in the amount of 10% of the
14 tax due.
15 (2) One copy of the statement showing the department's
16 calculation of the timber's value shall be filed in the
17 office of the county clerk and recorder of the county in
18 which the timber was harvested.
19 (3) The department shall proceed to collect the amount
20 of taxes, with the penalty added thereto and interest on the
21 whole thereof, at the rate of 8% a year, from the date of
22 completion of the statement by the department until paid.
23 Upon request of the department, the attorney general or any
24 county attorney shall commence and prosecute to final
25 determination in any court of competent jurisdiction an

1 action at law to collect the delinquent tax.
2 (4) The taxes assessed against any person under
3 [section 6 or 7], together with penalties and interest
4 thereon, are a lien upon all property owned by such person
5 within this state. The lien attaches on the date when the
6 taxes are certified to the county clerk and recorder by the
7 department and may be enforced in the name of the state of
8 Montana in the same manner as other liens are enforced at
9 law.
10 Section 13. There is a new MCA section that reads:
11 Section 14. Rules and forms. The department may
12 promulgate rules and prescribe forms it considers necessary
13 to administer the provisions of this act.
14 Section 14. Transaction provision. Timber harvested
15 before July 1, 1982, pursuant to a contract signed before
16 January 1,1979, is not subject to the harvest tax imposed by
17 (section 7).
18 Section 15. Severability and nonseverability
19 provisions. It is the intent of the legislature that if a
20 part of this act is invalid, all valid parts that are
21 severable from the invalid part remain in effect. If a part
22 of this act is invalid in one or more of its applications,
23 the part remains in effect in all valid applications that
24 are severable from the invalid applications. In the event
25 this tax is held not to apply to timber cut on public forest

1 lands, this act is invalid in its entirety.

2 Section 16. Effective date. This act is effective

3 January 1, 1981.

-end-

Possible Amendments to LC 0010/01

Timber Taxation

1. Amend page 4, section 4, line 11
Following: line 10
Strike: lines 11-15
Insert: "(7) "Value" means the market value from sales of timber on the stump as shown on contracts, leases, or purchase orders to the right to harvest the timber or a price imputed by the department (under section 8 of this act), which ever is less."

2. Amend page 7, section 8, line 23
Following: "approximates"
Strike: "gross proceeds"
Insert: "market value"

3. Amend page 8, section 8, line 6
Following: line 5
Strike: lines 6-11
Insert: "(2) When imputing value, the department should use comparable sales data from similar stumpage sales of like quality and character at similar locations and accessibility, making adequate allowances for size, quality, cost of logging, accessibility to point of conversion, and other relevent factors. Allowances should be made for slash disposal, timber stand improvement, reforestation, sale area rehabitation, erosion control, or other costs of harvesting timber where these practices are being applied."